

Senate

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Motion failed.

(Senator Downing, Hancock, Poulsen, Rock, Monier, Lamontagne, Gardner, recorded in opposition)

Senator Bossie moved to lay **SB 128** on the table.

Adopted.

SB 196, repealing the requirement that prescription drugs be kept in their original container. Ought to pass. Senator McLaughlin for the committee.

Sen. MCLAUGHLIN: Mr. President **SB 196** is sponsored by Senator Bradley and is attempting to clarify some language where upon at the present time if you have a controlled drug and not in the individual bottles that you are in violation of the law and it has happened and the feeling is of the committee it shouldn't happen. What we are saying is repeal that part of the law relative to keeping controlled drugs prescribed to an individual in it's original container is hereby repealed. It's a very simple bill and it should be done on behalf of all the people who, I'm sure, carry some medication with them and don't want them to be in violation at that time.

Sen. BRADLEY: I just want to rise in support and make a couple of points. I put this bill in at the request of Judge Laughlin at the superior court who had just sat on a trial of a man as I remember the case as he described it, was a disabled Viet Nam veteran who had several pain medications that had been prescribed to him in different containers and he had consolidated them into one container, one of the containers which had been prescribed. He was picked up, arrested and tried and as the judge said in his letter to me but for the good common sense of the New Hampshire jury that man would have been convicted of a serious crime. It really doesn't seem to make any sense but I suspect this is something many of us might have violated in the past and it doesn't seem to be necessary in order to carry out drug inforcement programs. The one further thought I have is that we often get arguing about the wisdom that will be employed by the prosecutor or judges and by the courts therefore the attitude seems to be that we don't have to be so careful about how we draft our criminal laws because after all the courts will administer them wisely. Well, I submit to you this is a perfect example of a law

where the legislature wasn't very careful and where the wisdom of the prosecutor was not very great and I think we should be careful of how we define crimes and this is a bad one and ought to go.

Adopted. Ordered to third reading.

SB 174, relative to placing a neglected child under the supervision of the director of the division of welfare. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the Senate this bill is sponsored by the Division of Health and Welfare. I think it's a fine bill and it's saying they want to have supervision care over children rather than custody. What it's meaning is that custody in most cases takes the child away from the parents and puts them in a foster home or do something else with the child. Under the supervision which they want to have granted here it is saying they can keep the child in the same home with the family, have a little bit of authority over them so they step in and assist the parents with the child and vice versa so hoping to keep the home life more in tact. At the present time they do not feel they can do this the way the laws are written. They are asking if they can have this permission and intend to keep more children in the family and to save some expense for the state by taking custody of the child and putting him in a foster home. We feel it is a very good bill and a step in the right direction.

Adopted. Ordered to third reading.

(Sen. Bossie recorded in opposition to the bill)

SB 122, prohibiting the manufacture, transportation, possession, or use of virulent hog cholera virus and redefining the word garbage in RSA 144 relative to the feeding of garbage to survive. Ought to pass with amendment. Senator McLaughlin for the committee.

Amendment to **SB 122**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

prohibiting the manufacture, transportation, possession, or use of virulent hog cholera virus and redefining the word garbage in RSA 144 relative to the feeding of garbage to swine.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Definition of Garbage Changed; Feeding of Garbage to Swine. Amend RSA 144:1, I by striking out said paragraph and inserting in place thereof the following:

I. "Garbage" means waste consisting in whole or in part of animal waste, including any waste, animal carcasses or offal from such carcasses or parts thereof, but excluding waste from ordinary household operations which is fed directly to swine on the same premises where such household is located.

Sen. McLAUGHLIN: Mr. President this is a very important bill this afternoon and if you look on page 20 about half way down the amendment, all the amendment does is spell the word swine properly, a typographical error on the original bill as to where they put the word swine in so that's all the amendment does. On the actual bill what it's doing here is if you as an individual on your own property are raising swine and so forth you can now feed them with the household content that you may have left over without being boiled. At the present time the law says it has to be boiled, the federal law says no it doesn't have to be boiled. So this is allowing the person who has been feeding their own swine without boiling the household goods. At the same time it is saying if they get some vegetables from a nearby farmer and it's brought down to use if they are raising these animals that they can now just give it directly to the swine rather than have to boil it. It helps the people out here in New Hampshire. At the same time it's confining with federal laws which aren't as stiff as the local laws. Commissioner Townsen is very much in favor of

it. Dr. Sanborn is in favor of it. Everyone there testified in it's behalf and recommend it's passage.

Sen. SMITH: The bill also says that it amends the definition of garbage in RSA 144 relative to feeding garbage to survive. I just wondered if that is a moral, ethical statement or what kind of a statement that was?

Sen. McLAUGHLIN: I think, unfortunately, Senator that you were not listening to my analysis when I first started. Now if you had been listening and paying attention the amendment it says swine, change the correct spelling to the word we are trying to put in there. I'm sorry I did not have your attention at that time.

Amendment adopted. Ordered to third reading.

HB 109, relative to official state songs. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President the bill as came amended from the House contains some seven songs that are now considered the state songs of New Hampshire. As you recall we passed a bill that would appoint a commission, three members of the public a member of the House, and a member of the Senate. I am informed that Senator Bossie has graciously accepted appointment to this commission and he will be one of the four other esteemed members making the decision in picking the state song. So I urge it's passage.

Sen. ROCK: The last time we had a song Senator we had a musical interinterpretation sheet music and we don't have anything to judge this by.

Sen. PRESTON: No I haven't Senator Rock but I discussed this with Senator Bossie and he has agreed to sing the official state song before us.

Sen. ROCK: Could we have it now?

Sen. PRESTON: I hope, at least I'm not aware that he has made his selection.

Sen. ROCK: On the serious note, this does not preclude to get Senator Bossie's select committee to consider a song it doesn't have to go by the bill route is that correct? It can be just presented to him on a tape or by an orchestra or something and they will consider it? Do you have to have a bill for every song?

Sen. PRESTON: I believe it has to be one of these seven as

presented Senator Rock. The public hearing joint committee encouraged all of those. I am not aware they can bring more songs in to this bill.

Sen. BOSSIE: I was of the opinion that you could, but to be safe, what I would prefer to do is to place this on the table and I know you had discussed a possible song to amend it, have another one, and to include any other song. I think that's only fair.

Sen. ROCK: That was my understanding and if there is some doubt in your mind and since I've already been on my feet perhaps you would move until we can clarify whether you can take other songs without them having passed through the legislative route because it seems rather expensive to have your committee consider a song only that we had to spend several hundreds of dollars to put on a piece of paper and we don't even have the notes, melody of the song or a tape recording would give you a much better feel for what the music was so perhaps that would be in order.

Sen. BOSSIE: Mr. President we have a number of bills that have been laid on the table and they are ominous so I think it be preferable if I would make a motion to make it a special order for Tuesday next at the hour appointed by the Chair for this purpose.

Senator Smith moved to lay HB 109 on the table.

Adopted.

SB 162, relative to the number of sets of special number plates that may be issued to a member of the general court. Ought to pass with amendment. Senator Downing for the committee.

Amendment to **SB 162**

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Number of Plates Increased. Amend RSA 260:10 (supp) as amended by striking out in line 12 the number "two" and inserting in place thereof the following (3) so that said section as amended shall read as follows:

260:10 Special Number Plates. Upon payment of motor vehicle registration fee, if any, the director may issue a special

plate, to be designated by him, to be affixed to the vehicle of the governor, the members of the governor's council, president of the senate, members of the senate, speaker of the house of representatives, members of the house of representatives, the attorney general and his deputy, county sheriffs, deputy sheriffs, and vehicles of state police and motor vehicle departments. Said special plates shall be issued at no cost to the state other than those plates furnished to the governor, the members of the governor's council, the president of the senate, speaker of the house of representatives, state police and motor vehicle departments. The director shall not issue to a member of the general court more than 3 sets of special plates. Such special plates may be attached only to vehicles registered in the name of a member of the general court or his spouse or to any vehicle while being operated by such member.

Sen. DOWNING: Mr. President the amendment is on page 20 and 21 of today's calendar and what it does very simply is change the present quantity of two sets of number plates available to each legislator to three. Testimony indicated that the original bill would have an unlimited number available. This became a problem back in the session of 1971 as I recall and at that time the legislature put a limit on it to two. Well testimony heard at the hearing indicated that we tried the two and it would seem more reasonable to make it three. So the amendment merely allows three number plates under the present statute.

Amendment adopted. Ordered to third reading.

HB 108, permitting the liquor commission to issue a special license to certain bowling centers to serve liquor and beer beverages. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President HB 108 simply enables bowling alleys having 10 or more lanes to buy a special license for the selling of liquor. As we are all aware, we have beer and wine now in bowling alleys. Several number of people attended the hearing. We had 4 people appear in opposition, one a Baptist minister, another a legislator who fought it in the

House and two others. The committee urges adoption of the committee report.

Adopted. Ordered to third reading.

(Senators Preston, Fennelly, Poulsen, Gardner, Saggiotes and Bossie recorded in opposition.) (Senator Blaisdell recorded in favor of the bill.)

Special Order 1:01

SB 52, relative to a transfer of classification in the NH retirement system by a member with more than 25 years service.

Motion of "inexpedient to legislate."

Adopted.

Senator Trowbridge spoke under rule No. 44.

Just over the last 24 hours, which is not untypical, we have become aware of several gubernatorial actions which, if they were not so serious, would make a great comic opera.

First, we hear that the Governor is relying on his intelligence sources concerning a possible demonstration at Seabrook. In view of the fact that the demonstration is known to be of the peaceful variety, the Governor's intelligence sources which tell him that the Clamshell Alliance is a terrorist group, is probably the same intelligence source which told the world that there was a missile from out-of-space in a pond in Wakefield.

While we know that George McAvoy is looking hard for some use for his extra sandbags, I just wonder whether they will be needed for protection for the National Guard at Seabrook this weekend.

One thing that might not be apparent on the surface today is the fact that if the law enforcement officials insist on indicting people at Seabrook for contempt of court, that means that all the court processes which are now pending will have to be put off unless 1000 or so cases of contempt of court are dispensed with, placing an intolerable burden on the court system.

Then we hear that the Motor Vehicle Department cannot handle it's business and that registrations will be allowed to go through May. The Governor, in his usual manner,

tries to blame the legislature for the fact there are not 27 extra people on board, without remarking at all that the 27 people were laid off by gubernatorial Executive Order which he asked for in December. We understand that a great many of those items that were cut off by the Executive Order have been restored, thereby leaving me to believe that we will have a substantial deficit at the end of this year, but why the Governor himself did not release from the Executive Order (which he has the power to do), the 27 people needed at Motor Vehicle, is a question which should be asked. In fact, why doesn't he do it right now?

Secondly, it is about time that the people of this state realized what a cut-back in services means, because this is exactly what is meant by a cut-back in services. Later on yesterday, we also heard from Arthur Drake that he called the Governor's office to see where the bill was which would do the job for Laconia State School which the Governor mentioned in his capital budget message. Much to his amazement, I am sure, the Governor's Office replied while they would support such a bill, they never intended to file it themselves.

Another example that came up yesterday is that Senator Brown has been asked to put in a bill for food at the Prison, due to budget restraints over the last few years that have given proportionately less money to the current expense items at the Prison. Price rises in maintenance and food have literally wiped out their budget. If anyone thinks that we can go forward without an inflationary factor of at least 6-8%, all that is going to happen is that we will be back next January to dig into an empty hole to pay for our regular current operating expenses.

These examples that are happening now should be looked at carefully, not because the prison is overspending, but because we are underfunding.

It will also be interesting to see in the next month or so, how the Crime Commission will, all of a sudden, grant the equipment and community correctional centers for which they have the federal funds and have had for years, now that the Governor has had his way and beaten Warden Helgemoe into a pulp in order that the prison might survive.

For one day in the life of a legislator to be able to have these 4-5 things turn up would normally seem remarkable, but in this state, this kind of juvenile approach to the problems of the

state has become the principal characteristic of the Thomson-Loeb administration.

Senator Lamontagne spoke under rule No. 44.

ANNOUNCEMENTS

The Senate will meet on Tuesday, May 3rd at 1:00 p.m.
The Senate will meet on Wednesday, May 4th at 1:00 p.m.

Senator Rock spoke under rule No. 44.

SUSPENSION OF RULES

Senator Downing moved to suspend the rules of the senate so far as to allow that the reading of bills ordered to third reading be read a third time and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

SB 132, relative to the compensation and benefits of certain permanent policemen in case of death or disability.

SB 113, providing for a master plan for state land use in the city of Concord.

SB 130, relative to transfers of classification in the retirement system.

SB 172, relative to parental responsibility.

SB 140, relative to the liability of landowners.

SB 141, prohibiting the use of minors in pornographic arts, pictures, displays and the sale or custody of any such material in the state.

SB 196, repealing the requirement that prescription drugs be kept in their original container.

SB 174, relative to placing a neglected child under the supervision of the director of the division of welfare.

SB 122, prohibiting the manufacture, transportation, possession, or use of virulent hog cholera virus and redefining the word garbage in RSA 144 relative to the feeding of garbage to swine.

SB 162, relative to the number of sets of special number plates that may be issued to a member of the general court.

HB 108, permitting the liquor commission to issue a special license to certain bowling centers to serve liquor and beer beverages.

Adopted.

Senator Bergeron moved reconsideration on **HB 108**.
Motion failed.

Recess until April 29 at 1:00 p.m.

Out of recess.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 313-319 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 313, relative to political expenditures, advertising and contributions. (Foley of Dist. 24; Rep. Hildreth of Belknap Dist. 6—To Executive Departments, Municipal and County Government)

SB 314, permitting the assembly and voluntary participation of public school pupils in the free exercise of religion during a 5 minute period before the start of the official school day. (Sanborn of Dist. 17; Monier of Dist. 9; Rock of Dist. 12—To Administrative Affairs)

SB 315, relative to mobile home foundations. (Sanborn of Dist. 17—To Energy and Consumer Affairs)

SB 316, establishing a surrogate parent program in New Hampshire. (Smith of Dist. 3—To Judiciary)

SB 317, relative to elderly tax exemptions for residential

real estate. (Keeney of Dist. 14; Rep. Boisvert of Hillsborough Dist. 22—To Ways and Means)

SB 318, relative to alternative civil proceeding to declare material obscene and to terminate its dissemination. (Foley of Dist. 24; Rep. Krasker of Rockingham Dist. 22—To Judiciary)

SB 319, changing the penalty for a first conviction for operating or attempting to operate a motor vehicle upon any way while under the influence of intoxicating liquor or any controlled drug. (Monier of Dist. 9—To Judiciary)

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 1011, 783, 784, 780, 920, 751, 428, 622, 689, 785 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 1011, relative to the approval of the Dover school district budget. To Education.

HB 783, requiring the labor commissioner to issue a decision in a wage claim hearing within 30 days of the hearing. To Administrative Affairs.

HB 784, relative to the payment of liquidated damages by an employer for failure to pay back wages. To Administrative Affairs.

HB 780, relative to certifications required of town and city officials on reports and assurances to state agencies. To Executive Departments.

HB 920, relative to the state's assumption of the responsibility of water impoundment. To Recreation.

HB 751, relative to the release of inmates at county houses of correction for the purpose of gainful employment. To Judiciary.

HB 428, requiring enclosed malls to provide public rest rooms. To Public Institutions.

HB 622, relative to the responsibility for public medical assistance. To Public Institutions.

HB 689, relative to town funds on deposit in any one bank. To Banks.

HB 785, relative to cities, towns and precincts contracting with sanitary engineering firms. To Executive Departments.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn we adjourn until Friday at 1:00 p.m.

Adopted.

Late Session

Senator McLaughlin moved to adjourn until Friday at 1:00 p.m.

Adopted.

Friday, April 29

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord we are often confused by the methods used and the end results that turn out so differently than they were intended to.

Let us not be taken in by pressure movements which so often hide the real meanings.

May we with thy help stop, look, and listen then prayerfully proceed with the very best interests for all.

Amen

Senator Monier led the Pledge of Allegiance.

Senator Preston served notice for reconsideration on **SB 174**.

Senator Foley was away on Senate business and was excused from the Session.

COMMITTEE REPORTS

SB 195, defining and restricting the meaning of "owners" as used in zoning changes. Ought to pass. Senator Monier for the committee.

Sen. MONIER: **SB 195** was put in as you can all see by a series of people primarily from Senator Sanborn and the district of Auburn, Candia and I think Raymond. The bill deals with a specific problem that primarily exists in Auburn. And the committee heard testimony on this in which the definition of the current law indicates that an owner of lots owned by 20% of the people in the town where the changes are to be made can petition that any zoning change regardless of what it is will require 2/3 vote. And what happens is that in the town of Auburn the Manchester Water Works of the total acreage owns 21% of it and so what happens is that if a zoning thing that comes in and someone doesn't want it they go and get the Manchester Water Works to sign a petition and I have a copy of one here in which the petition reads is a normal petition protest petition owners of at least 20% of the land and its signed by one person and that signature is the President of the Water Commission in Manchester and as a result of this signature and petition anything thats coming up in the zoning change rule or regulation for a vote of the people in the town of Auburn and Candia automatically must have a 2/3 vote. The question was raised very clearly that the term owner ought to be changed as it applies to these provisions should not include a municipality, a commission, a agency, a board or other annuity thereof and thus it would have to be a true 20% of people that owned the land, not municipality, not an agency, not a board, not a commission by which they really thwart the intent of the people with respect to this kind of a vote. So then what this bill does specifically is change the definition of the word owner in this particular case and this particular law. I firmly believe that I think the committee was 100% behind it and it is a change in the regulations and it will

restrict this kind of action by body rather than by the people themselves.

Sen. KEENEY: Senator Monier, other than not allowing official bodies and so forth to be included in the 20% does it limit the geographical location of any of the owners who want to petition under the law?

Sen. MONIER: My answer would have to be no because that was not brought up and I do not believe it does Senator Keeney. It is simply to change the definition of owner per say.

Sen. HANCOCK: Senator Monier, does this mean that the municipality would not be able to be represented in any way by way of presenting an opinion?

Sen. MONIER: I don't think so because this is not an opinion in the RSA. The RSA here applies only to that portion of the RSA in which such regulations, restrictions, body made from time to time be amended as appeal. In the case of a protest against such change signed by the owners of 20% of either the areas of lots and etc. What they are doing is changing the owners cannot be a municipality. If they own more than 20% of the land, in this case its the Manchester Water Works.

Sen. HANCOCK: I was not at the hearing. Were there any of the planning people in the state represented at the hearing?

Sen. MONIER: No. The aspects about the planning in it really weren't questioned. What the answer was that it would take 2/3 to make the planning or zoning change its petition basis and under that RSA 31:64. There was testimony, however, Senator Hancock that I think was interesting and that was the last two zoning changes that were on the ballots In Auburn the people voted within two to three people of the two-thirds. The only reason it had to be two thirds was because one agency owned 20% of the land and they signed a petition.

Sen. HANCOCK: This condition could also obtain to many other situations of large landowner for example couldn't it?

Sen. MONIER: Yes it could. One large landowner could require two-thirds vote, that is correct.

Sen. SANBORN: I rise in favor of the recommendation of the committee ought to pass and I highly favor the bill. One thing in answer to one of the questions already raised relative to Manchester Water Works as in this case or some other municipality that owned land in other municipality have the right to appear even if they are excluded from this 20% of

the land. Yes they do and I think you will find that it is finally coming before the meeting to vote there must be public hearing and anyone of these groups can appear at that public hearing. In fact they have to be notified and appear at that hearing and make their objections if they have any. Its a strange thing that happened this case that Auburn asked for this bill. They wanted to raise the requirements for a lot in the town of Auburn from 2 acres to 3 acres. In other words they are trying to hold down a little bit on the growth of the town of Auburn which is growing by leaps and bounds. 3 acres lots in many of our towns are now appearing. My towns have it and others in the same area. Because the Manchester water works own 21% of the property in the town of Auburn they signed the petition and actually come to find out later they didn't know what they were signing the petition for. It caused them to lose the changing of the lot size from two to three acres in the town of Auburn that they had at the last annual town meeting. Actually the towns that will be affected by this in my area are the towns of Hooksett, Auburn, Candia and Chester. Manchester water works owns quite a bit of land in each one of those towns. The most affected is the town of Auburn with 21% of its land owned by the water works. This can in the future affect quite a few towns in this state as more and more of the larger communities find they must get their water from outside sources and start buying up other property in other towns have maintained for their water works. This bill does affect those four towns directly right now and in the future many other towns in this state.

Adopted. Ordered to third reading.

SB 197, permitting a city or town to charge fees for commercial waste. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This bill adds the words commercial waste to chapter 147:26-a. The reason and the purpose for it is, in the town of Seabrook the dump which they used to use was on land owned by public service. Roughly a year ago public service shut them off. They could no longer use it. The town of Seabrook has applied to 11 different communities to try and dispose of their rubbish collections and waste. They were not ac-

cepted in any one of the towns. They finally had no choice but to truck it to Saugus which costs them \$18 a ton. Through the years their appropriation for removal of dump which has been in the vicinity of \$65,000 a year. Because of this added increase of costs for truck to Saugus they've increased their appropriation to \$200,000 a \$135,000 increase and they still don't know if that's going to be enough or not. The law specifically does not state clearly that they can charge the shopping centers, the commercial industries along Route 1 and so forth. The selectmen have approached these shopping centers and they have agreed they are willing to contribute. But the law is not clear they can do it. This bill will do that.

Sen. ROCK: Senator, would this mean that in the city of Nashua where business might own a downtown store paying taxes to the municipality for such things as police protection and fire protection and rubbish collection that the city of Nashua could not assess an additional fee on that store owner to pick up his trash where they don't charge it to somebody else?

Sen. BROWN: I believe it would.

Sen. ROCK: Was there opposition to this bill at the hearing Senator?

Sen. BROWN: None.

Adopted. Ordered to third reading.

(Senator Rock, Healy recorded in opposition.)

SB 76, relative to voter registration. Ought to pass as amended. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate I think I might say at the outset that Senator Sanborn in particular has done a lot of study on election laws in the state for the state and he and Representative Conley I think ought to be commended for this effort. The amendment on this bill merely changes the voter registration card which would be included. This is the only amendment which we have proposed and has been agreed to by the sponsors of the bill and for a description of what the bill does I think I would defer to Senator Sanborn.

Sen. SANBORN: Mr. President basically the bill I mentioned it back at the passage of **SB 1** that there was something coming through that would provide the application form for the town clerks and so forth who wanted to register voters. As

Senator Hancock mentioned the amendment just changes slightly the form of application. The application then would be printed by the Secretary of State and made available to all the various town clerks and boards throughout the state so that you would have a standard registration card for all people to be using throughout the state. One thing further that the bill does that is not in the statutes at the present time, the supervisors of the checklist when they are registering a voter, they have nothing they can actually hang their hat on to decide who is a resident and who should be eligible to become a voter of that town. This has been ever since the supreme court struck down any requirement for the time of residency in that town or city. In section I of the bill under 55:14 it provides the following statements that the supervisors may request of the person, the applicant, to be a voter in the town and they are: citizen of the United States, 18 years of age or older, legal residence, and then in section two: in case of reasonable doubt the supervisors of the checklist may require further proof and then it lists some of the things that they may use, not bound to these requirements and they may have others. These are some of the things that will be in the law that the supervisors can use to hang their hat on as a request to find that a person is definitely a resident of that town and going to be a voter in that town. In other words to determine residency, a person possessions acquisitions or property, location of a persons occupation, a place of licensing or registering of a persons personal property, a place of payment of taxes that may be governed by a persons residence, a persons address shown on the drivers license, these are various things that the supervisors may now use as proof of residency within the town. I'll try to answer any questions.

Sen. BRADLEY: Senator with respect to those criteria that you were just listing to us, how does the location of a persons occupation have any relevance to the question of the legal residence?

Sen. SANBORN: Well, these are one of the things quite possibly a person is living in Manchester because he is working in one of the factories in Manchester. He may be living in the town of Raymond because he is working in Raymond in one of the manufacturing plants there.

Sen. BRADLEY: It doesn't seem to be that if a person is claiming residence in your town and place of occupation is your town, it doesn't seem to me that should give him any

credit towards establishing it. On the other hand if he is working outside your town but he has all other criteria, it doesn't seem to be that should be used against him. I don't understand why the place of occupation is even relevant to this. . . .

Sen. SANBORN: This is just one of the points that may be used. He can come to the board of supervisors in my hometown and say I am living in Deerfield now and I reside here because I'm working in the factory.

Sen. KEENEY: Senator Sanborn is page 5 of the original bill changed in any way by the amendment?

Sen. SANBORN: I don't believe so. I'm not on that committee so I can't say for sure. What I've seen of the amendment as printed in the calendar I haven't been over it word for word but I don't think that it is.

Sen. KEENEY: I know this came to your attention once before and if the amendment hasn't changed it, do you see a problem in line 4 which says the last of these is the Saturday, the Saturday 10 days before the election, is there not a problem when a school election is not held on a Tuesday and there is not "the Saturday 10 days before the election?"

Sen. SANBORN: I would have to defer that to . . . I'm trying to remember Senator Smith if that was part of the thing that came up in the committee because this is basically based after what you and representative for Wolfeboro put together.

Sen. SMITH: I am not sure that this question that you ask is a valid one in that, I haven't read this until just now myself. I think that they could be corrected by just removing the Saturday.

Sen. SANBORN: This may be true, however, Senator Keeney I assure you that Ray Conley who is the chairman of the statutory revisions committee in the House is looking forward to getting a hold of this bill and he will see to it if we remind him of it, you and I, that this probably should be changed, he will definitely see that it is changed before coming out in final version.

Sen. MONIER: I'd like to clarify something for Senator Keeney's concern. This is a concern Senator in a particular case where there is an election other than a Tuesday. The agreement that I have as chairman of the committee on Executive Departments is that these election bills as they pass out of here and go to the House they will go to Rep. Conley's committee and he and I have more or less informally committed ourselves to get these to each other because the end product

would then come out of there and be cleared in a joint hearing without two committees at a later date and so I think that's a matter that can be cleared up at that particular time.

Sen. BOSSIE: This is kind of a form of declatory sentence with a question at the end. Senator, I just had the occasion to call the register of voters in Manchester, the individual happens to be a very good friend of mine, to inquire not about the bill itself because the intent is good and the purpose. It just for the actual way it is done. In the bill you state that the forms are to be on 4" X 6" registration forms. I have been advised that the state this past year provided new forms to them which they are using which are 5 1/4" X 5 1/16" and these aren't working well either and if we change it to 4X 6 the city of Manchester for one will have to do this all over again and also will have to buy a new box just to put them in. Is there any way that we could change that 4" x 6" to accomodate the city at least?

Sen. SANBORN: Again I'll say the final reply that I made to Senator Keeney and various others and as stated by Senator Monier this is all going to Rep. Conley in the House and being put together into several bills, one bill for each chapter in the existing election law and at that time they will make those corrections. And if I'm not mistaken Manchester has to reregister again don't they? Wasn't there a law passed so they have to completely reregister again?

Sen. BOSSIE: I think they already did that. Now these are the new forms. I believe Senator Monier wants to answer this too.

Sen. MONIER: How can we be assured that Rep. Conley is going to get this back to us so we can change it to a standard size or reasonable size?

Sen. SANBORN: As I said to Senator Keeney, we can assure that by being at the advertised public hearing and you try and remind me or be there yourself and we will see to it that it does come out on standard size cards.

Sen. SMITH: Mr. President I did not or have not had a chance to really throughly look at the bill but the 6 x 4 cards or the Saturday 10 days before the election and I apologize for that. I was on the committee with Senator Sanborn and I would just like to reiterate what he has said in that it is important that we get some form of standard registration law. Many of the things that were in this bill were particular

problems during the Durkin-Wyman election and I know living in a district with a number of small towns that there is no uniformity as to who is allowed to register to vote and who isn't. I think this bill particularly in the first section does give very good guidelines as to what kind of people should be allowed to vote. And also a standard form of registration will make it much easier in case of challenges at a later time. I do hope that the Senate will go along with the passage of this bill at this time and you may rest assured Senator Bossie and Senator Keeney that I will personally talk with representative Conley and mention these two particular problems in regards to the bill so that they can try and rectify this situation.

Sen. BRADLEY: Why should the location of the persons occupation count one way or the other toward establishing residence?

Sen. SMITH: It is one indication of residence. These are various criteria.

Sen. BRADLEY: I understand that but if you put it down there it means in some case its either going to count favorably or unfavorably towards someone establishing a residence and I'm trying to think of a case where it could legitimately count one way or the other and I can't think of any and therefore I'm wondering whether or not we should include this on the list of things that you would speak to. . . .

Sen. SMITH: I would be glad to talk to Rep. Conley in regards to this, however, I had a personal experience of an instance of concern in regards to this, that there are people who sometimes sleep in one town but make their livelihood and historically are more involved in the town in which they are employed and wish to continue to vote there. I think this helps those kinds of people who decide that by God this is the town where I'm really working and it may lean one way or another. Maybe you think thats a dangerous concept.

Sen. BRADLEY: If your telling me that this would allow somebody who has their home where they sleep at night and habitually reside to register in the town where they are working I think it is dangerous.

Sen. SMITH: No. What I'm saying is that they may spend time in homes in two places is what I'm saying and a desire to vote in the town which they particularly want to be employed.

Senator Fennelly moved to lay **SB 76** on the table.

Division vote: 12 senators voted yea. 4 senators voted nay.

Adopted.

SB 166, permitting changes of party affiliation by mail and changing the time for holding sessions of supervisor of the checklist. Ought to pass as amended. Senator Hancock for the committee.

Sen. HANCOCK: If you will turn to page 18 in today's calendar you will see the amendment. The amendments deal principally with time, number of days. The bill as amended deals only with registered voters. It allows the voter to change his party registration by mail and this is done on a form which you will see in the original bill on page 4 which must be notarized by a notary public or certified by a justice of the peace. The bill also requires that supervisors of the checklist be in attendance for two days. I don't know about other communities but I do know in the City of Concord the supervisors of the checklist now meet, of course, beyond the 90 day requirement which is also something we hope to change by this bill; but they meet for we'll say 7:30 to 8:30 on a Saturday night and the notice that is published in the newspaper is very small and very easy to miss so that we are trying to require that there be longer sessions in which they meet and also that they meet in a period which is closer to the primary time. 90 days as it is now set up by the law the 90 day change of party before the primary is a long time and it's a period in which people are not necessarily thinking in terms of elections or in terms of candidates or in terms of party platforms and it doesn't, people really don't get revved up until a much closer time so that under this bill the first day of the two-day requirement would be not less than 25 nor more than 30 days prior to such primary as set forth in the amendment and the last day would be not less than 20 days nor more than 25 days prior to the primary. Allowing registered voters to change their party by mail is of special significance to the handicapped and the elderly. Again, I don't know about the particular situations in your community but some of the places here in the city of Concord where people have to go and meet with the supervisors of the checklist are very difficult for the handicapped and for the elderly to maneuver so that this bill

primarily does two things. It allows the registration, change of party registration by mail and it also shortens up the time in which that may take place.

Sen. BOSSIE: In speaking with the register our voters of Manchester she has told me that a number of people write in with a change of address or something of this nature and if a married couple, they both sign the letter and its not good. Only one person on a letter under the current law I understand. If a man and a women who are married write in on the same letter can one letter be good?

Sen. HANCOCK: I think not under this provision, Senator Bossie, it says I so and so and such and such in the county have hereby so thats its a personal registration and would require each voter to file separately and to be certified or notarized separately. This would preclude the fraud which some people seem to be worried about.

Sen. SAGGIOTES: Senator, the thing that bothers me about this as far as change of registration by mail, the way I read the amendment on page 20 is that they would obtain a form from the city clerk, would they have to go and obtain it in person?

Sen. HANCOCK: I would think that would be immaterial. I would think there is no reason why they should have to go and get it in person; because when it is filled out and sworn to then it would go back . . . the bill requires the supervisors the court forwards the forms to the supervisors of the checklist so that when it comes back with 10 forms, just one would count and be recorded and they forward it to the supervisors.

Sen. SAGGIOTES: I believe you answered my problem. The form would have to be sworn before a justice or notary?

Sen. HANCOCK: Before a justice or notary before it would be eligible to be recorded as a voter on the checklist.

Sen. HEALY: Senator, the 20 day period prior to the primary seems a very short to me coming from the city where there are many thousands of voters and even with the 90 day level they have quite a few problems, I do not object to the measure whatsoever but I do object to the time element because of printing and changes and on many occasions we've had to resort to supplementary lists in a case like this even for additional voters and if you'd like to have these changes made printing ballots for a whole city like Manchester where there are 12 wards involved it takes time and it takes

a lot of work and our board of registers is not that large so I'm wondering if that time limit could not be changed to give them more time to do their job properly?

Sen. HANCOCK: We discussed that Senator Healy in the committee and it now gives about three weeks to get that done, to make those changes and as was pointed out with rapid printing techniques now it did seem a feasible time to comply.

Sen. HEALY: Well you say with the rapid printing techniques and that usually means things like this have to be approved by the board or Mayor or Alderman and that takes a little while sometimes too and when you take 12 wards for example in Manchester, and all this mail is coming in and all these transitions and changes have to be made by just a few clerks, I think its just two we have and sometimes we have to take on added help to meet the demands even under the current conditions so in that time element I'd say that really is a pretty short notice.

Sen. MONIER: Mr. President I had hoped that we could have got by SB 76 and go to 166 because I rise in opposition to it. I'm not going to make a motion at this time with respect to it. Instead I'd like to take a few minutes of the Senates time to pass on a couple of words about it. It came out of our committee ought to pass, at that time I indicated that I was going to oppose it on the floor. I'm not going to make a motion at this time as I said to change the ought to pass but my reasons for that are very simple. I still have my agreement with representative Conley that the election bills would come out of our committee and go to him if possible so we could have a joint meeting at a later time and straighten out and iron out some of these situations such as the 76 we just dealt which I will certainly assure Senator Bossie who is not here, the effect that I will notify representative Conley with respect to this. We have at the present time in our committee a couple of bills that are coming from the House that relate to some senate bills that we have. One of which you've heard, and that is the one on the presidential primary in which the House has a similar bill. We are going to hold that there in the Senate on ours when it comes we will amend it to meet both of the requirements and bring it back through again so there is coordination being done. I think its time for somebody to start asking for some caution on these things and I'm not afraid to do this if I may. For example, in 166 and in 76 I find two or

three things that we are being not stampeded on but I have a feeling because of the Wyman Durkin affair and a partisanship that emerged for the first time we were voting on those matters that what we are winding up with is a whole series of bills that are being drafted, handled, looked at, debated, etc., that really are dealing with a sledge hammer to kill a mouse. Now let me give you one example of what I mean. In January of 1975 the bureau of census released a report on voter participation from 1966 to 1974. Now there was some staggering things in this but to pick on one of them to illustrate my point I'd like to tell you right now that the bureau found that 31.9% of the voting age population who failed to register in 1974 as compared with 26.4 in 1966 I think that's important. Only 3 1/2% gave as the reason that they were unable to register. Meaning, that there was some kind of a block to their registering in terms of a poll tax in terms of a literacy tax or in terms of forms used or in terms of some system where the supervisor of the checklist are not there all the time etc., and that's what I consider to be the mouse or the fly right now. Yet here we have two more bills dealing with exactly the same thing and we are acting as if what we are doing is we are going to correct the situation. Now the truth to the matter is for example that the same group of 34%, 15.2% about five times that number said they were not interested. In short they didn't say that it was because there was some obstacle to it. They said they were not interested. There ought to be some kind of a story to that, that maybe it isn't forms we need maybe it's not the extending of hours we need, maybe what we need is to strengthen the process of whose running for office. I disagree with Senator Hancock and yet I admire the honesty with which she says something, I don't know if she means it the way it comes out but she says it just the same. For example at the hearing when we talk about no later than 10 days before a primary and talk about 90 days being too long a period of time before a primary, what we are really saying is that we want to make that date much closer to the election so the people can vote in a primary for the expressed purpose of a particular candidate a person, an individual. Now I'm not going to argue about that if that's what we want; but let's stop being hypocrites. If that's what we want, let's have an open primary. Never mind the party system in the primary at all. The primaries are party elections. Anything that we do in terms of making it easier for a person an individual voter to switch

from one party to the other or from a no party to a particular party at the time of elections or as it draws close is obviously a gimmick that we are saying to ourselves it is better not to have a party nomination but lets have everybody running and then the people will pick from one of those and I have no objections to that either if that's what you want to do. If you're going to say 90 days is to far back for a person to make up their mind what your really saying is you don't need the parties. There is no reason and there is no analytical study that been done and the bureau of census did an excellent study and I recommend some of us get it and read it in full but when they start telling me that only 3.5% of the total people that did not register gave as a reason they did not because of some kind of instructions as "unable to register" that I'm not at all convinced that what we are concerned with when we start talking about making it easier for the voters or that thats going to solve the numbers of bodies we have and I hear this all the time only 35 or 40% vote, that isn't the problem at all. Obviously its not if only 3.5 of all of them give that as a reason yet we spend innumerable time coming up with new forms saying we have to open up polls more frequently, we've got to provide the supervisor of the checklist an easier way we should do it by mail, we should do it by carring them out all of which opens up the possibility of fraud, opens up the possibility that what your doing is producting particular groups of people to vote for particular issues and for that particular candidate that supports those particular issues. Once again I really have no objections to it but I don't want to be a hypocrit If you want an open primary and pick up your ballot and declare if you're an inde-to run as an individual candidate against all the others that want to but I'll be darned if I have to come in here in the State of New Hampshire under the laws and be registered as a republican or a democrat and to vote then in the primary and at the same time find out that what I'm passing is a whole series of legislation to make it easy for someone else to come in at the last minute 10 days before now you can walk into a primary and pick up your ballot and declare if your an independent and soforth and therefore what your really saying is there is no such thing as a two party system. A primary should be a popularity contest. Thats fine with me. Don't hide it under the fact that we supposedly are paranoid in doing something wrong in the sense that the supervisors are only open so

many days and that they ought to choose 90 days before. You want an open primary, put a bill in and let it pass.

Sen. HANCOCK: Senator Monier would you agree that it would be easier for the handicapped if they could register by mail?

Sen. MONIER: Yes and no, it depends on what kind of a handicapped person you're talking about. At the present time registering by mail in the State of New Hampshire. . . .

Sen. HANCOCK: Walking disability handicap.

Sen. MONIER: I think some provisions should be made for that.

Sen. HANCOCK: Would you agree that if they could do it by mail it might be easier?

Sen. MONIER: Its very possible it might be. Its also very possible there are other ways it could be done for example the supervisor of the checklist could go to the handicapped peoples places themselves. So I'm not sure that maybe its the only solution to it.

Sen. HANCOCK: Would you agree that if such a registration form that is notarized or certified by a justice of the peace then the element of fraud would be eliminated?

Sen. MONIER: I will agree that it certainly would make it more difficult to make fraud for it. Perhaps I ought to add to that it also would provide for penalty if it was discovered that it was a fraud.

Sen. HANCOCK: Are you aware that individuals declare under a party to vote that it isn't the party who decides necessarily. . . . I'm sure you understand that persons, individuals declare themselves to the candidates under an individual motivation that they are not necessarily asking the approval of the party. You made a illusion to the parties having made their decisions. . . .

Sen. MONIER: I didn't make illusions that the parties making the decision, I'm saying and I said that a primary is a party election to decide on a candidate.

Sen. HANCOCK: You sighted figures from the bureau of the census which in my opinion are irrelevant to this issue. Is it necessarily bad to offer an opportunity for further voter registration simply because of a report you have read says there is a small voting percentage at the present time?

Sen. MONIER: Let me clarify what your saying, what I'm saying. I'm saying that the report which you may think is immaterial, I made the statement and I stand by it Senator

that we are spending a lot of time, not just on the bill, but on a lot of bills we've had in stating we are making it easier for the voter to register to get to vote etc., what I said was that the study shows that only 3.5% of those who did not register of the total gave that as any reason as to why they didn't register and I said that's like getting a fly with a sledge hammer. What about the other 97% of those who didn't register?

Sen. HANCOCK: Is that necessarily a deterrent giving an opportunity for other people to vote?

Sen. MONIER: It's not necessarily a deterrent but I'm not so sure therefore that the motivation is clearly what we say it is.

Senator Monier moved to lay **SB 166** on the table.

Adopted.

SB 91, relative to the confidentiality of legislative budget assistant working papers and access to records and documents to perform post-audit functions. Ought to pass as amended. Senator Monier for the committee.

(Senator Smith in the chair.)

Amendment to **SB 91**

Amend RSA 14:31-c, IV as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

IV. Any public officer or state employee who makes available to the public such working papers or excerpts thereof, which have not been made public by the legislative budget assistant or the deputy legislative budget assistant under paragraph III, shall be guilty of malfeasance in office and subject to all sanctions provided therefor; and such conduct shall constitute prima facie evidence that such officer or employee is guilty of violating RSA 643:1.

Sen. MONIER: **SB 91** Mr. President came before the committee it was heard earlier. It was not one of the rush ones that came through and we are awaiting an amendment from the legislative budget assistant Henry Good, that amendment

came through and on page 21. One of the questions that came up it came up a couple of times and I had some inquiries about it was whether this amendment would apply to the press. I state now that it does not apply to the press. The implications here are only to a public officer or state employee who makes available to public such information. This amendment was to clarify that. It came from the legislative budget assistance and the committee accepted the amendment and brought it out ought to pass with an amendment.

Sen. DOWNING: Senator, I get a threat of secrecy through this bill that I just wonder why it is necessary that government should become more secretive than what it is already? How do you justify the bill?

Sen. MONIER: I guess I justify it the same way you justify whats on the books now and that is confidential medical records are confidential. I think that an auditors records of any sort particularly in the state level where they may be evaluating a particular agency or something, should be confidential in working papers. The end product of course is not under the right to know law. I have seen in the past two or three times in which the working papers themselves or the action as they continue or did audit were utilized on the basis for implication of wrongdoing and I think that is improper on the part of people involved. Therefore, what this does is strengthen the hands of the LBA to the effect that those documents and their actions while they are evaluating, carrying out regular audits are not a public document. Once they have completed and drawn their conclusions from all of the facts, those are all a public document. This is not much different to how you come up with a bond issue and so forth until the bond issue is available then you are available to have all the information upon which that information was based.

Sen. BRADLEY: Senator Monier can't you say what you just said about almost any process of government where the agency end up with some kind of final conclusion?

Sen. MONIER: Well you can Senator Bradley except that I feel an agency that is involved in the process of evaluating, examining an investigation should have this kind of protection. This is not to say that anyone cannot question their actions once they have drawn their conclusions provided for them. But statutorially the LBA is the person that does the audits of all state agencies. While they are carrying on that

audit there are obvious questions to be asked in any audit as there are in investigation that a person that may be questioned as a witness does not necessarily mean that he is in turn a part of the crime.

Sen. BRADLEY: But what I'm getting at is that there are many many agencies of government at the state level, county and municipal where you get involved with things like audits, investigations and end up with a final report or conclusion, why do we single out this one agency and make it exempt from the right to know law?

Sen. MONIER: I don't make the agency and that's a false assumption that's part of exactly what I'm talking about Senator. The agency is not exempt from the right to know law. It says the working papers of that agency carrying out a specific audit are not open to the public until the audit is completed. That's not quite the same thing. So your statement was incorrect as far as I'm concerned.

Sen. BRADLEY: Well, let me ask it this way, what about the working papers of all the other agencies that might be involved with either audits or investigations, should we make those a secret now?

Sen. MONIER: No we are not making these secret. Once the audit is completed we are, however, restricting their use until the conclusions are drawn so that they cannot be used to imply things by anyone else or any other agency until such time as the conclusions are drawn.

Sen. BRADLEY: I don't read your bill even to provide for their disclosure after the conclusion of the report has been made. Did I miss something in there?

Sen. MONIER: As long as they are working papers they cannot be. Obviously once the report is completed they are no longer working papers. The report is there for everyone to see.

Sen. BRADLEY: Does this mean then working papers would not be physically a part of the final report. What I'm getting at will the working papers as you intend them to be available for public inspection once the final. . . .

Sen. MONIER: I would assume Senator Bradley that if they were pertinent to and part of the conclusions drawn they would have to be on file and open to verify if anyone questions what the reports read. The point, however, is they should not be used until the report is completed by anyone to draw any interpretations except in the agency itself. You've also

talked about a lot of other agencies and areas that do this, of course there are a lot of them also in which this kind of investigation work is not open to the public until the report is done. When the report is done then you have the full picture. I don't want someone being able to cut a piece out and pass it off and say see it is a lousy picture until they look at the whole picture.

Sen. BRADLEY: Then you do agree with me there is nothing in your bill that provides for the release of the working papers even once the report is being made?

Sen. MONIER: I don't know that that is even necessary what it does is define what working papers are.

Sen. HANCOCK: Senator Monier why does this bill specifically permit the legislative budget assistant to have access on files on public assistance recipients?

Sen. MONIER: Because this was at the request of Henry Good, because the LBA is the arm of the legislature and the official arm of the legislative body for conducting all audits of any kind of program ongoing. Obviously some of those are in Welfare. Therefore, if they were conducting an audit it would be somewhat like saying that if I call a CPA firm in I wasn't able to turn over certain documents to them if they are making that kind of evaluation.

Sen. HANCOCK: Doesn't he now have sufficient authority for this?

Sen. MONIER: The answer that he gave me was that it was not clearly stated.

Sen. HANCOCK: Why did he need it particularly stated?

Sen. MONIER: In case there was any problem about it.

Sen. HANCOCK: Say such information was given to a newspaper reporter shall we say.

Sen. MONIER: Now what kind of information Senator?

Sen. HANCOCK: Working papers were given to a reporter. It seems to me that under this bill the person who gave the information would be a felon and the reporter to whom he gave the information could then be prosecuted for shielding a felon, is that correct?

Sen. MONIER: No. Because the amendment says that any public officer, state employee shall be guilty of malfeasance in office and subject to all sanctions provided thereof. That's part of the amendment.

Sen. HANCOCK: But the person who gave out the information would be subject to a . . .

Sen. MONIER: I haven't got anything in the bill about that.

Sen. DOWNING: Mr. President, I rise in opposition to the pending motion. I strongly believe that if the government can't be open enough no matter what stage of it we are talking about and the public is entitled to any and all the information they can possibly have available to them in anything we are doing at any time. It doesn't make any difference what stage its in. They ought to know it in thinking from minute to minute if that were possible. I recognize that it isn't; but to the extent that it is government and should be that open and all its agencies should. I'm fearful of this type of legislation. Its put a closer secrecy around an area that should be wide open. There shouldn't be any secrecy at all about anything that we do up here. I urge you defeat the present motion and the committee report.

Sen. BRADLEY: I just want to briefly second what Senator Downing has said. I think there is no legitimate way to distinguish the LBA and their working papers from anyone else's working papers thats in the public sector. The purpose and success of the right to know law ought to be well understood and appreciated by this time and this is a direct confrontation with that law. The very specific thing that bothers me about this besides the general spirit and policy of it is as I read this bill there would be no way for a member of the general public or a member of the news media to check up on the conclusions and the final report that gets made by the LBA and it seems to me that is essential. That if someone doesn't buy the report, thinks something has been riged the obvious solution and remedy to that is to open up the records and let people go in and have free access to them and this bill as I read it says that those working papers are confidential and not subject to the right to know law forever.

Sen. SANBORN: What you say is very interesting Senator Bradley but you've always, about every time that you questioned me you brought up a hypothetical case. I'd like to bring up a hypothetical case. You say you are the county attorney for your county and you have a mess of papers on your desk among which is a paper that you're making out your budget for the ensuing year before the convention and you may have another piece of scratch paper on top of it and in discussing something on the telephone to somebody you've written down the figures of say \$30,000. Now Senator Healy is a reporter comes in and sits down to talk with you and he sees

the court budget and this other piece of paper with \$30,000 and immediately goes down to the Daily Times and makes up the story that your requesting at least \$30,000 salary for the ensuing year. Do you think thats correct?

Sen. BRADLEY: I think that would be very irresponsible journalism but I don't think the remedy for that is to make things secret. My own feeling is in general we can rely on the professionalism of the news media to check their figures and to verify them.

Sen. BROWN: Senator wasn't there a case in point a year or two ago in fact I think it was discussed here on the Senate floor where somehow there was a leak in relation to working papers and it was taken out of context and it damaged the character of not only the agency but the individual?

Sen. MONIER: Yes senator there was and it was a classic example of what Senator Bradley just said about irresponsible journalism. I might add it was evaluated in the legislative fiscal committee with the LBA and it was part of that which brought about this bill.

Sen. HEALY: One particular phase of this bill, confidentiality of working papers, that reminds me of a time I served on a school board and we used to have executive sessions and they were highly secretive so called. I had been a member of the press at the time and we go into these sessions and they were executive sessions and everything that was going on there was confidential, no release to the press or anything else and here I am sitting there as a member of the press and agreeing to this. After a session is opened and closed and the doors are open for us to leave there used to be a run to the telephone there would be three or four of them and they would knock each other down to see who could get to the telephone first. The radio stations would be called. I think Senator Rock at the time had a radio station and working in Manchester and even the newspaper that I worked for was being called so as far as keeping things confidential people just seem to want to tell people something thats always in confidence. To me if I want something, something from working papers many times and if I know something was available I certainly can get it. I know who to call. These things are always available. Even now under my working conditions the police will tell me this is secret. I'll go to another source this is secret then I come back for example just the other night I told Captain Segrotious about a story that I had and he said how

did you ever get that, that's confidential. You can't tell us about that. I said I guess I must be a detective because I have the whole story without you telling me. As far as confidential is concerned, I think that is excessive wordage there in this particular thing.

Sen. BRADLEY: Do I understand your remarks that your against this bill?

Sen. HEALY: Actually I'm not against the bill per se, using your legal language the word per se which I've used for many years because it doesn't mean a heck of a lot of anything, but I do think it's a little bit ridiculous.

Sen. SAGGIOTES: Mr. President I'd just like to say that I was a member of the fiscal committee at one particular time and let me say that I would like to see everything out in the open so that the public can have access to all information including giving the opportunity to the media. If it's open they will get the information right the first time we hope. I also support having good access to the tax records, which should be available to the public, but some people feel differently on certain occasions. I was a member of the fiscal committee at the particular time when it was alleged we had a leak and a leak on a particular report and the information was available to other people before the members of the fiscal committee had a chance to sit down and review the final report that was being presented to the committee. The following morning somebody else got the information before through the working papers so called. If the Senator from the 11th district were here today he would vouch to what I'm saying and he was very much disturbed at the time as the rest of the members of the committee were. I don't think this is a bad bill in the words of one of our former Senators, I think it is a good bill.

Sen. BRADLEY: I assume that the information that was leaked was misleading or inaccurate or whatever. If we have this law on the book how is anybody else outside of the LBA and the fiscal committee going to verify whether or not it is misleading?

Sen. SAGGIOTES: Very good question. The bill as I read it pertains only to the LBA office. When a report is finalized and presented to the fiscal committee it's done in an open meeting. The public is there. The media is there. They give copies of the report to the members of the committee at the open meeting have the opportunity to ask all sorts of questions and the

answers are given as to how the final determination has been made to reach the conclusion of the report.

Sen. HANCOCK: The way I read IV on page two it says any person who makes public such working papers or excerpts thereof which have not been made public by the LBA or the deputy LBA under paragraph three shall be guilty of a class B felony. I would then think that a reporter who receives such information would be subject to prosecution because of his shielding of a felony. I would like to join with Senator Downing and the others who oppose this piece of legislation.

Division vote: 11 senators voted yea. 6 senators voted nay.
Amendment adopted.

Senator Downing requested a roll call. Seconded by Senator Bradley.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Keeney, Sanborn, Provost, Brown.

The following senators voted nay: Bradley, Hancock, Healy, Bossie, Fennelly, Downing.

12 yeas 6 nays

Ordered to third reading.

SB 158, relative to closing the state liquor stores on Christmas eve and New Year's eve. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: **SB 158** is intended to not allow to happen again what happened last December when some liquor stores in the state were required to remain open on Christmas Eve and New Years Eve, 5:30 p.m. in the bill is, as I understand, their normal closing time.

Senator Monier moved to lay **SB 158** on the table.

Division vote: 11 senators voted yea. 7 senators voted nay.

Adopted.

HB 446, relative to appeals from decisions of the racing commission and the greyhound racing commission. Inexpedient to legislate. Senator Bradley for the committee.

Sen. BRADLEY: This bill if passed would say that anybody whose applying for an original license to operate a dog or horse racing track would not have the regular right of appeal from the decision of the racing commission to the superior court. The purpose of the bill as described to us by the attorney general was supposedly to somehow limit the discovery that the agreed party might have the reasons and background for the denial. However, the committee felt that the attorney general didn't have much of a case on that and it really wouldn't matter one way or the other how the thing got appealed. That probably the limit of discovery would probably be the same in any event and the bill in that sense didn't serve any purpose and further the committee felt that the right of appeal is a good check on a decision which might have been made arbitrarily for purely political reasons. So we see no purpose in changing the law and that's why we referred to inexpedient.

Sen. ROCK: I want the record to show we join with Senator Bradley in his decision on this and we support the committee recommendation.

Adopted.

(Senator Saggiotes in the chair.)

SUSPENSION OF RULES

Senator Smith moved to suspend the rules of the Senate so far as to allow the introduction of a committee report on **SB 187** not previously advertised in the journal.

Sen. SMITH: **SB 187** deals with the New Hampshire—Vermont interstate school compact and deals specifically with Hanover and Norwich Vermont and the relationship between the two towns in the school district. This is a companion bill to a bill which has already been adopted by the Vermont legislature so that this will make the relationship between the two states and the two towns as to what they wanted to be in relationship in amending the article and in regards to adding other schools or towns to the district by vote. Both towns as I

understand it have been are in agreement with this bill and I hope that the Senate will go along with the suspension of rules.

Sen. BRADLEY: I just want to rise briefly in support of this. I am the sponsor of this bill. As many of you perhaps know Hanover, New Hampshire and Norwich, Vermont sit directly across the river from each other and are very closely tied together historically. The two towns formed perhaps the only interstate school district in the country. The interstate school district exists under a compact between the States of Vermont and New Hampshire. The two towns have had a couple of arguments about pooling of aid and about amendments to the articles of agreement and after quite a long study the two towns, reached an agreement as to how they would like to have the compact read as it applies to the two towns. I have put this in at the request of the Norwich School district and Hanover School district and the combined resident school district. As Senator Smith said this amends the compact in a way which has already been done by the State of Vermont. As far as I know there is no opposition in either towns to these proposed changes. The changes will effect only Hanover and Norwich. Others could come in under the compact if they wanted to form other interstate school districts but this amendment wouldn't apply to them unless they wanted it to.

Sen. LAMONTAGNE: Senator would it be necessary to have a warrant on this so the town would have to vote?

Sen. BRADLEY: No not under the way its set up. Actually its already been on the warrants of the two towns and the two towns have already approved the proposed legislation but can only be effective once its enacted by the states. Its not set up so it goes back to a referendum. Its not set up that way.

Sen. LAMONTAGNE: So in other words I'm speaking about the town in New Hampshire in the warrant thats already been accepted by the people?

Sen. BRADLEY: Yes it has.

Adopted.

SB 187, relative to the New Hampshire—Vermont interstate school compact. Ought to pass. Senator Smith for the committee.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Smith moved to suspend the rules of the senate so far as to allow the introduction of a committee report on **SB 204** not previously advertised in the journal.

Sen. SMITH: This bill was brought in because Lebanon college is concerned about getting degree granting power but they have not gone through the procedure which is accepted by all other educational institutions of higher education that is to go to the post secondary education commission and get their recommendation which is then presented to the legislature. This may occur at some future date and we would like the bill left in committee for study and evaluation in case we are called back at some future date then we could possibly pass it up. Hope the Senate will go along with the suspension of rules and the committee recommendation.

Adopted.

SB 204, concerning the power of Lebanon College to grant degrees. Refer to Education for interim study. Senator Smith for the committee.

Adopted.

(Senator Smith in the chair.)

SUSPENSION OF RULES

Senator Sanborn moved to suspend the rules of the Senate so far as to allow the introduction of a committee report on **SB 186** not previously advertised in today's journal.

Sen. SANBORN: Mr. President this is no controversial bill and there is no sneaky-peeks attached to it. There are no amendments in any way shape or manner. It just extends the authority of the post secondary education committee into a field which is now held by the chairman of the Board of Education and two other people and they are all in agreement that they would prefer that this procedure be done by the commission of post secondary education and what this is, we have an agreement with Dartmouth University and also with a couple

of other universities outside the state. The one at Dartmouth is relative to medical students. We guarantee there will be four or five seats available at Dartmouth for medical students. We guarantee another contract with Pennsylvania Veterinarian school right now for four or five seats for kids that want to be veterinarians. We were the first state in the union to start such a procedure of guaranteeing some of our people in this state who are going to further education in these two fields to guarantee they would have a top notch education in these two fields. It also broadens the field slightly. As you may note in the analysis it says veterinarian medicine, human medicine, optometry, dentistry, law and other post graduate fields so that in the future we can be insuring some of our top notch students coming out of a high school that they can go on in their perspective fields and be assured they will get a seat in some good college in the United States.

Sen. ROCK: Senator, isn't it a fact that in veterinary medicine or in human medicine that there is a great deal of competition among the New Hampshire students for these very limited number of seats?

Sen. SANBORN: This is very true Senator. In fact in the area of veterinarian medicine we have right now at the University of New Hampshire probably one of the best pre schools in veterinary medicine that exists. We have up to 15 each year coming out of that school that are considered top notch and we are only guaranteeing five seats so they have to cut this down and take it apart to pick out which 15 will make up the five to go.

Sen. ROCK: Isn't it a further fact Senator that if we did not have this compact agreement with the school of veterinary medicine that you could actually say as a matter of fact that no New Hampshire youngster would get to be a veterinarian?

Sen. SANBORN: That is quite true because it is a very expensive process to get into a veterinarian school to take it out.

Sen. ROCK: Isn't it also a fact senator that these five young people who are the chosen, selected ones to get the seats still have to pay all their college expenses in the school of veterinary medicine and all of their tuition and all of their room and board and the only thing we do is we make an amount of money available to guarantee that this college will hold the seats open for the students?

Sen. SANBORN: This is absolutely correct Senator. I

might add that some other states are now examining very closely our method of contract with the veterinarian schools and so forth and are going into this thing because they have found the New Hampshire method of contracting for seats is the best method there is and the colleges in fact that have veterinarian medicine think we are doing one heck of a good thing for our people and hope more do come in from other states.

Sen. POULSEN: Mr. President, I rise in strong support of this. We had one particularly in Littleton who wanted to become a veterinarian some years ago and it was only through this bill that made it at all possible.

Adopted.

SB 186, relative to extending the authority of the post-secondary education commission. Ought to pass. Senator Sanborn for the committee.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Healy moved to suspend the rules of the Senate so far as to allow the introduction of a committee report on HB 441 not previously advertised in today's journal.

Sen. HEALY: This bill concerns the Fish and Game Commission and its relative to changing the season of otter, mink, and muskrat and its pretty much of a safety measure in a way. It advances the season about 4 days in some counties although the northern counties of Coos, Carroll, and Grafton remains the same. The bill as of present these seasons seem to conflict with the deer season and it gives these trappers about 4 days to do a little more trapping in certain counties and then you get out of the way of the guns of deer season. It is a good measure and it has the endorsement and support of the Fish and Game Department.

Adopted.

HB 441, relative to changing the season on otter, mink, and muskrat. Ought to pass. Senator Healy for the committee.

Sen. LAMONTAGNE: Mr. President, members of the Senate I rise in support of the bill only because Coos, Carroll and Grafton counties have been exempted from this law.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Hancock moved to suspend the rules of the Senate so far as to allow the introduction of a committee report on HB 671 not previously advertised in today's journal.

Sen. HANCOCK: Mr. President, members of the Senate, at the present time the Commissioner of the Department of Resources and Economic Development can make contracts for the leasing of privileges and concessions on state forest and reservation for not more than a five year period. This bill would remove that five year limitation specifically for contracts with the 4-H foundation of New Hampshire. This foundation has two camps at Bearbrook State Park which are used extensively by children all over the state and they feel if the five year limitation is removed then people will be more eager to contribute time and money in the upkeep of those camps. That is the reason for this legislation.

Sen. SANBORN: I am in support of this bill and its motion to pass it at this time. The 4-H foundation uses the facilities of Bearbrook State Park which the two ponds in question both happen to lie within my district and the remainder of the park in Senator Healy's district and the children have indicated that they would assist and provide extra facilities, make repairs to the various camps and so forth around the area of these two ponds and greatly help to increase the value and various other things of this facility. I have been there many times and observed the children and the adults and it is a very excellent program and the 4-H kids really look forward each year for the month they may spend at Bearbrook Park and I highly endorse this bill.

Adopted.

HB 671, relative to contracts between the state and the 4-H Foundation of New Hampshire, Incorporated concerning

facilities by Bear Brook State Park. Ought to pass. Senator Hancock for the committee.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Poulsen moved to suspend the rules of the Senate so far as to allow the introduction of a committee report on **SB 163** not previously advertised in today's journal.

Sen. PRESTON: Mr. President this bill only raises the top limit of what licensing board of surveyor's change charge of license is being raised from a maximum of \$10 to a maximum of \$30. The board indicates they will probably go somewhere between 20 and 25. This is very similar to bills that have been passed already this year on the Board of Engineers and so on. There was no objection to it. I think its a good bill.

Adopted.

SB 163, relative to the fee for the renewal of land surveyor's certificates of registration. Ought to pass. Senator Poulsen for the committee.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Poulsen moved to suspend the rules of the Senate so far as to allow the introduction of a committee report on **SB 177** not previously advertised in today's journal.

Sen. POULSEN: Mr. President this is a long and comprehensive bill that has to do mostly with the fire warden service in the State of New Hampshire. It comes out of the committee that was appointed last year to study the forest laws and worked out carefully by Ted Natti. The state forest has been checked by local fire wardens and it seems to suit everyone. It also has one chapter that affects the violation of slash law changing them from a violation to a misdemeanor so that the one years time can be used to prosecute. I think its a good bill.

Adopted.

SB 177, relative to preventive measures for forest and brush fires. Ought to pass. Senator Poulsen for the committee.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Brown moved to suspend the rules of the Senate so far as to allow the introduction of a committee report on **SB 190** not previously advertised in today's journal.

Sen. BROWN: **SB 190** is a very simple bill. It tends to state that any lobbyist or legislative counsel cannot be registered for an ensuing year if he has not filed his itemized statement of the previous year.

Adopted.

SB 190, relative to the registration of lobbyists. Ought to pass. Senator Brown for the committee.

Adopted. Ordered to third reading.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn in honor of the birthday of our distinguished majority leader until Tuesday, May 3 at 1:00 p.m.

Adopted.

Late Session Third Reading and Final Passage

SB 195, defining and restricting the meaning of "owners" as used in zoning changes.

SB 197, permitting a city or town to charge fees for commercial waste.

SB 91, relative to the confidentiality of legislative budget assistant working papers and access to records and documents to perform post-audit functions.

SB 187, relative to the New Hampshire—Vermont interstate school compact.

SB 186, relative to extending the authority of the post-secondary education commission.

HB 441, relative to changing the season on otter, mink, and muskrat.

HB 671, relative to contracts between the state and the 4-H Foundation of New Hampshire, Incorporated concerning facilities by Bear Brook State Park.

SB 163, relative to the fee for the renewal of land surveyor's certificates of registration.

SB 177, relative to preventive measures for forest and brush fires.

SB 190, relative to the registration of lobbyists.

Adopted.

Senator Provost moved to adjourn at 4:00 p.m.

Adopted.

Tuesday, May 3

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Most Merciful Father strengthen us, we pray and save us from discouragement. Let us not fail our standards of right and justice. Keep us from selfishness and forgive our enemies as we humble ourselves before thee this day.

Often we despair of our world but remind us that thou hast been facing these self same things since time began.

Keep our souls in faith and hope for we know thou art with us.

Amen

Senator Sanborn led the Pledge of Allegiance.

Senator Poulsen served notice for reconsideration on **SB 163**.

Senator Poulsen moved to reconsider the action by which **SB 163**, was ordered to a third reading.

Adopted.

SB 163, relative to the fee for the renewal of land surveyor's certificates or registration.

Senator Poulsen moved to lay **SB 163** on the table.

Adopted.

INTRODUCTION OF SENATE BILLS

Senator Provost moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 320-326 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 320, relative to lead paint poisoning. (Foley of Dist. 24—To Public Institutions)

SB 321, establishing the office of state negotiations. (Smith of Dist. 3—To Executive Departments, Municipal and County Government)

SB 322, relative to four-lane highways and rights of way. (Trowbridge of Dist. 11—To Transportation)

SB 323, reducing the size of the board of trustees of the university system by deleting the presidents of the university, Plymouth state college and Keene state college as trustees ex officio. (Sanborn of Dist. 17—To Education)

SB 324, requiring an annual financial statement from a person, association or corporation conducting horse or dog races or meets. (Blaisdell of Dist. 10—To Ways and Means)

SB 325, amending the charter of the union school district of Keene to provide that a candidate for school district office shall file his declaration of candidacy no earlier than 45 days and no later than the fifth Monday next preceding the district election. (Blaisdell of Dist. 10—To Education)

SB 326, defining the term “inhabitant” for purposes of certain elections. (Lamontagne of Dist. 1; Rep. Clark of Grafton Dist. 5; Rep. Taffe of Grafton Dist. 5—To Executive Departments, Municipal and County Government)

HOUSE MESSAGES HOUSE REFUSES TO CONCUR

SB 20, providing that only persons less than 16 years of age be required to wear protective headgear while operating or riding on a motorcycle.

HOUSE REQUESTS CONCURRENCE

Senator Provost moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 463, 748, 928, 752, 799, 801, 876, 1054, 922, 851, 879, 910, 696, 700, 714, 812, 856, 817, 847, 857, 1113, 1115, 197, 623, 643, 790, 710, 884, 208, 778, 880, 756, 781, 11, shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 463, increasing the amount of the homestead right. To Executive Departments.

HB 748, to implement the uniform marriage recognition law. To Judiciary.

HB 928, relative to veterinarian licenses. To Public Institutions.

HB 752, relative to the time limit for reporting divorces to the bureau of vital statistics. To Judiciary.

HB 799, including divorce among the events that are reportable to the registrar of vital statistics. To Judiciary.

HB 801, relative to providing certain additional documents when applying for a marriage license. To Judiciary.

HB 876, relative to prior service credit of group I members of the retirement system. To Finance.

HB 1054, relative to the distribution of legislative budget post-audit reports. To Executive Departments.

HB 922, relative to property tax exemptions for real estate equipped with wind-powered energy systems. To Energy and Consumer Affairs.

HB 851, relative to the use of privately purchased telephones on the existing telephone system. To Energy and Consumer Affairs.

HB 879, prohibiting telephone companies from charging a toll for any call placed to another phone within the geographical boundaries of a town. To Energy and Consumer Affairs.

HB 910, relative to double doors. To Energy and Consumer Affairs.

HB 696, eliminating the requirement of advertising of a lost passbook. To Banks.

HB 700, extending the time a real estate salesman may not be associated with a broker without losing his license. To Administrative Affairs.

HB 714, amending article 8 of the uniform commercial code relative to the duty of an issuer to inquire into adverse claims. To Banks.

HB 812, establishing an order of distribution of assets of insolvent insurers. To Insurance.

HB 856, relative to the inspection of used motor vehicles offered for sale by retail dealers. To Transportation.

HB 817, relative to privileged communications between religious leaders and penitents. To Judiciary.

HB 847, repealing provisions relative to depositing wills with the register of probate. To Judiciary.

HB 857, eliminating the need for legal seals on summonses, subpoenas, deeds and conveyances. To Judiciary.

HB 1113, permitting the withdrawal of a pre-existing district from a cooperative school district. To Education.

HB 1115, concerning AREA schools incurring indebtedness. To Education.

HB 197, relative to open pit burning in towns of less than 2,500 population. To Environment.

HB 623, relative to reporting of collateral resources by a

welfare recipient and persons liable for support of a dependent child or of a welfare recipient. To Public Institutions.

HB 643, relative to the qualifications for licensing of chiropractors. To Public Institutions.

HB 790, relative to cancer drug therapy. To Public Institutions.

HB 710, relative to the payment of legal fees in appeals against the department of employment security. To Executive Departments.

HB 884, relative to the payment of wages to an employee who reports to work at the request of his employer. To Executive Departments.

HB 208, relative to public hearings on variances of zoning regulations. To Executive Departments.

HB 778, reducing the debt limit of the city of Nashua. To Cities Legislation.

HB 880, relative to telephone calls to emergency services in towns. To Energy and Consumer Affairs.

HB 756, relative to acceptance of petitions by the planning board. To Executive Departments.

HB 781, to require notice of application for, or modification of, general assistance to be given to the municipality of settlement. To Executive Departments.

HB 11, to provide for the conditional repeal of the requirement for wearing protective headgear on motorcycles. To Transportation.

ENROLLED BILLS REPORT

SB 188, legalizing a regular meeting of the Monadnock regional school district.

SB 24, relative to the statutory definition of "farm, agriculture, farming."

HB 340, abolishing the police commission in Claremont.

HB 468, opening Christine lake in the town of Stark to ice fishing.

HB 174, increasing the fee for motorcycle operator's license to \$12 and providing an effective period for such licenses of 4 years.

HB 263, relative to the emergency generator at the state prison.

HB 430, authorizing dealers to issue temporary plates for 20 days.

HB 60, relating to registration and examination fees for professional engineers.

HB 238, relative to the investment powers of savings banks.

Senator Lamontagne for the committee.

ENROLLED BILLS AMENDMENT

HB 288, relative to emergency medical technicians. Senator Saggiotes for the committee.

Enrolled Amendment to HB 288

Amend section 1 of the bill by striking out line 2 and inserting in place thereof the following:

amended by inserting in line one after the word "assistants" the following

Sen. SAGGIOTES: Mr. President all the amendment does is correct a numbering error in one of the lines of the bill.

Adopted.

COMMITTEE REPORTS

SB 295, relative to sexual offenses against minors within the state. Refer to Judicial Council. Senator Foley for the committee.

Sen. FOLEY: Mr. President this bill provides a procedural time frame for the offenses of sexual assault involving a minor as the victim. The bill was the result of a study made by the people in the social workers of the Portsmouth office of the New Hampshire Division of Welfare assisted by the New Hampshire Probation Department and the Rockingham County Sheriffs Department. However, when the testimony was given it was very difficult to put in the time frame that was allotted to them of the things that must be done to a person if they are accused of this offense. Because we don't have too much time the bill was not really correctly written and there were other things that we found a great deal of

difficulty with. We felt it was best to send it to the judicial council to study.

Adopted.

SB 217, prohibiting smoke bombs. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President this is a simple bill that prohibits the selling, bating, giving away, lending of a smoke bomb. Some of you may recall that a year or two ago we had a similar bill prohibiting stink bombs but stink bombs don't extend to smoke bombs. A smoke bomb is defined as any kind of devise containing chemicals which when ignited gives off dense clouds of smoke. This was a problem particularly in the Franklin area and in one or more of the Franklin Schools were the kids were setting these things off and they discovered that someone nearby the school was setting these things freely so they I believe yourself, Senator Jacobson and another representatives from Merrimack are all co-sponsoring this bill and support it.

Sen. SANBORN: Would you interpret roman two on page one I presume, any person who sells, barter, lends would you interpret that to me please. That means anybody?

Sen. BRADLEY: Right.

Sen. SANBORN: In other words this makes a so called smoke bomb as defined above as illegal in the State of New Hampshire. Am I right or wrong?

Sen. BRADLEY: That is correct. And if there is a reason to have legal smoke bombs in the State of New Hampshire we maybe better think twice about the bill.

Sen. SANBORN: Well, that would be my next question to you Senator. I'm not sure whether you realize that the various fire departments and cooperatives throughout the state use smoke bombs in a confined space for training for their air-masks and so forth for their personnel. Are you aware of this?

Sen. BRADLEY: No I wasn't and it did not occur to the committee when they acted on it and I think you pointed out a serious flaw on the bill and I would think perhaps a motion would be in order to put on the table to see if we can't clear it up.

Senator Sanborn moved that **SB 217** be laid on the table.

Adopted.

SB 267, establishing a marketable record title act. Refer to Judicial Council. Senator Bradley for the committee.

Sen. BRADLEY: This bill that Senator Bossie and I sponsored at the request of several attorneys who are involved in title work. The intent is to make it simpler and cheaper to do title searches and to make peoples title to their property more secure and certain. The trouble with the bill is its rather complex and other title attorneys appeared before us and raised serious questions about how the bill will work. In view of the time of the session we think it should be sent to Judicial Council and let them work out the bugs.

Adopted.

SB 261, relative to the service of writs and other processes. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President this is a bill I sponsored at the request of the Judicial Council. An analysis of the bill is fairly complete and accurate. Currently, all legal process has to be served by a sheriff either in hand or left at the abode. Thats the service within the state if you are serving legal process outside of the state you are entitled to do it by registered mail return receipt requested. This bill would make it optional to have service in the state for most legal process by registered mail return receipt requested. The exception to that kind of service would be restraining orders and process under which property is actually taken into custody by the sheriff and in those kind of cases process would still have to be served by the sheriff. This will make the service process cheaper and more certain at least in the cases where a boat service is made. A boat service means you simply leave the thing on someones door step and thats a very risky way to make service and the opinion seems to be that this is a cheaper more sure way of seeing the people get legal process they are supposed to get.

Adopted. Ordered to third reading.

SJR 3, requesting the judicial council to study the problems

of collection on judgments and issuance of executions and to propose corrective legislation. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President this would be a bill if we had had time and the skill in which to get it drafted this rises primarily out of a meeting I had with sheriffs and others who were involved with trying to collect judgments once a court issues a judgement. There seems to be many problems in this area and its not working very well particularly in some counties. I came up with a bunch of ideas which I handed to legislative services and as of about a week or two ago they were still a list of ideas. Rather than try to get a bill drafted which would have been an impossibility we are simply sending these ideas over to judicial council asking them to study it and come up with the needed legislation. It is a complex area and it requires someone with a lot of experience both in the statutes and in the practice as to what kind of a bill you'd come up with.

Adopted. Ordered to third reading.

SB 214, prohibiting the possession or sale of devices used to defraud communications companies. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: Mr. President this bill is known as the blue-box bill and I guess its some kind of little contraption that you can put on your telephone and if you know how to use it you can get out of paying long distance calls. This bill would ban the use of such things as the blue-box and it also would ban the publishing of information on how to fraudtently use it and we recommend this handy bill should pass.

Adopted. Ordered to third reading.

SB 210, recodifying the probate laws of the state and incorporating some of the provisions of the uniform probate code. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President I'm sure all the senators have examined this bill very carefully as has our committee. This is a product of a number of years of study. It goes back, I

guess, to a committee that got set up which consisted of both legislators and members of the general public, attorneys, judge of probate who study the uniform probate code which has been enacted in some states. That committee studied the code and made several recommendations as to how much of the code should be adopted in New Hampshire. It got into bill form it came in the last session as HB 900 which was a little thicker than this and HB 900 was studied in the interim by the House committee and finally Attorney Arthur Nisewander, as a special committee for the judicial council, distilled it down into the last controversial part of the original proposal and that's what you have before you. This is a rather extensive revision of the entire probate code with not too many radical changes in it. It is not universally accepted as to what direction we ought to go. Some of the probate judges are nervous about it and I'm a little nervous about it myself, however, I do think the right thing for us to do with the bill is not study it again. I don't think it will get studied any further in the interim. There is an effective date on this bill of November 1, 1979. I think the responsible thing for the Senate to do at this time is to send it over to the House, let the house consider it and if amendments are needed either now or in the next two years or even if we really decide we made a mistake we could repeal it. But there has been so much work that's gone into this I think we ought to keep it alive and send it over to the House at the present time.

Sen. HANCOCK: Senator Bradley is it possible, or does this make it possible for a person to go through the probate process without an attorney?

Sen. BRADLEY: There are parts in here which are designed to that end. The original uniform probate court in its uniform that was the primary trust of that was to allow for a simplified administration without court supervision which makes a state administration cheaper. It also makes it easier for people to plunder estates and that's the kind of balancing act you're in. How much, to what extent do you impose court supervision, how much do you trust the people are honestly going to distribute the assets and New Hampshire has been in a position of requiring a substantial amount of court administration. This would lessen that a little bit.

Sen. HANCOCK: Is it still a fairly difficult process then for an individual other than an attorney to get a will through probate?

Sen. BRADLEY: I think that either with or without this bill the average person has a hard time administering a state without the assistance of an attorney.

Adopted. Ordered to third reading.

SB 148, continuing the public defender system in Merrimack and Hillsborough counties for 2 years and extending the same program to Rockingham county. Split report—Ought to pass; Ought to pass with amendment. Senator Bradley and Senator Bossie for the split committee.

Motion of ought to pass with amendment.
(Senator Monier in the chair.)

Sen. BOSSIE: The amendment as proposed by the split committee is printed on page 24. This is basically Senator Bradley vs. Senator Bossie and to be very frank as to what it is its really no great controversy over this bill, its just a question of whether we shall extend the public defender system to a third county other than Merrimack and Hillsborough county. Right now there are three lawyers that work for New Hampshire Legal Assistance in a public defender section, they work in Hillsborough county there are two lawyers that work in Merrimack county and it is our mutual agreement that they do a good job and they do it in cooperation with members of the private bar who work for a very small amount per hour and so a number of these cases the private lawyer would take and a number of cases the public defender would take. My great problem with the bill as it was proposed was the extension of it to Rockingham county and I have no doubt that in Rockingham county there are as many criminals as there are in any of the other counties but I think the question is how far do we want to promote this system of socialized law and that is it. Do we want individuals charged with crime to be represented by a corporation and of course the individuals who work for the corporation are lawyers and they have great ethics to consider but do we want big brother and this is Uncle Sam at its best who will determine the policies of these public defender programs and how many of what you can do and how many of what you cannot do. We've argued the policy years ago and I supported it to a limited extent as long as private attorneys would be involved in the process but I guess

I'm not prepared at this time to continue the extension of it and for that reason I urge you to support the split report and that with the amendment. If you feel let Uncle Sam do it all then lets amend it to have all the counties and if you feel that way I have no problem either. So I guess I personally prefer to be a little conservative in this area and prefer the private sector and all these young lawyers getting out of law school they need jobs and your going to create two down at Rockingham county but your going to put a lot of young fellows and ladies out of work because this is the only job we have for them other than driving a taxi cab.

Sen. DOWNING: Senator, you made your objections to the program very clear I just wonder why, if you deny the same program to Rockingham county which is operated so well and successfully in your own county how do you rationalize that? You keep it in your county but won't let any other county?

Sen. BOSSIE: I would frankly prefer that you take it and we are not having it in our county. I don't need it in my county. I think the private lawyers are doing a good job and these fellows that work for public defenders do a good job too. I'm just saying I don't want it extended all over the state and if you would like it in your county and amend Hillsborough out then be my guest.

Sen. DOWNING: Well Senator the program has been in existence and now its time to refund it again and either you believe in the program or you don't. You don't want to extend it into another county which you're not a citizen of but you're saying you keep it for your own county and either you believe in the program or you don't. Will you be voting against the bill itself?

Sen. BOSSIE: Well, I probably will vote against the bill if your amendment is on it. I think it was passed two years ago and while I was half way out the door it came in in that manner. I certainly would vote for it, they are doing a good job and I have no doubt about that. I'm just saying do we want this sort of thing throughout the state and I say no. It is in existence now. If you want it in Rockingham county be my guest. Take it out of Hillsborough county because I don't think we need it.

Sen. DOWNING: Would you support an amendment to the effect of the reallocation of the money to discontinue Hillsboro and put the money into Rockingham county instead?

Sen. BOSSIE: Now you'll take out Hillsborough county

and you would put in Rockingham and Merrimack? Sure I will support that.

Sen. BRADLEY: I rise against the amendment and I'm in favor of passing the bill in its original form. Please understand some of the background of this bill. Under the current constitutional law as defined by the U.S. Supreme court as laws our own indigent criminal defendants, when they come before the court they are entitled to legal representation but the state is going to have to provide legal representation to the indigent defendants one way or another. This program of the public defender is one type of delivery system. The other basic type is the so called assigned counsel system where the judge finds lawyers willing to serve and appoints them but when he appoints them lawyers get paid by the State of New Hampshire. So you've got a choice of going one way or the other. The testimony to our committee was and I accepted it so that actually the cheapest way to deliver these services to criminal defenders is a so called nick system which is what we have in the counties of Merrimack and Hillsborough. We have a public defender office and we have the assigned counsel system available for certain cases. Senator Bossie is concerned about whether or not we put lawyers out of work and I'm concerned too about the lawyer but as a Senator it seems to me the important question is, what is the most efficient way to deliver the services, what is the cheapest way to deliver the services and what is the best way. I think that experience has shown so far that we've hit on a good program and its been successful. It was tried in Merrimack and Hillsborough now the people in Rockingham county have indicated they want it and it seems to be the direction to go. The issue here is, do we extend the public defender system to another county and at the same time I hope that perhaps someday the whole state can have this system.

Sen. JACOBSON: Mr. President I rise in opposition to the amendment. I have the honor of being the father of the public defender system. It has proven to be most efficient and I think that we should try to have the kind of system that would allow of the cleanest most effective and the most fair way of justice and I hope the Senate would turn down the amendment and that we move in the direction of progress.

Sen. ROCK: Senator would you help me out a little bit here on page 3 of the bill under 604:b:8 it seems that there is an appropriation in here does the amendment change any of that?

Sen. JACOBSON: First of all I have to find the bill Senator. No it does not.

Sen. ROCK: Under the supposition you might be in the chair at the time final action is taken on the bill, would you then refer it to senate finance since it does contain that appropriation?

Sen. JACOBSON: I think that comes under rule #24. Yes.

Sen. HANCOCK: Mr. President, members of the Senate and Senator Jacobson in particular, I think as father of the public defender system you have reason to be proud. It has worked effectively in Merrimack county and we certainly would not like to see it discontinued.

Sen. TROWBRIDGE: Its much easier to budget for people who are there full time then it is to find out how many lawyers are defending people and I think for cross effectiveness you ought to keep this bill alive and send it on because its proven each time that we never estimate the right amount of money for the private attorney.

Sen. DOWNING: Mr. President I rise in opposition to the amendment which is pending before the body now and in support of the bill ought to pass as it is printed. I think and I've seen statistics developed by the New Hampshire Bar Association which more than justified the existence of this program in the two existing counties. I think it would be a very very worthwhile program to extend into Rockingham county with its size and its growth problems and I urge you to support the bill without amendment.

Amendment failed.

SB 148, referred to Finance under rule No. 24.
(Senator Jacobson in the chair.)

SB 212, adopting the uniform limited partnership act. Refer to Judicial Council. Senator Foley for the committee.

Sen. FOLEY: Mr. President this is a very lengthy bill which adopts a uniform limited partnership act. It describes the rights, powers, and obligations of general and limited partners of a limited partnership and it does many other things. However, the problem is that in writing the bill Mr. Jennings from Legislative Services came in with the IRS and the bill needs clarification by the IRS before we do anything else with it. They have the people who studied the bill and Mr. Jennings

and asked us if we would refer it and I move that we do so.

Adopted.

SB 213, adopting the uniform class actions act. Refer to Judicial Council. Senator Foley for the committee.

Sen. FOLEY: Mr. President this is on the same idea that the group came in, presented the bill and then said after they had read it over they felt it needed more study even though it had been drafted by the National Conference. It was similar to a bill which the Governor vetoed two years ago and they felt it would meet the same fate and they thought they would look it over and revise it before they brought it in for more consideration so I request this too be sent to the judicial council.

Adopted.

SB 268, relative to the rights of law enforcement officers. Refer to Interim Study Committee by Senate Judiciary. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President this bill would establish a variety of safeguards or so called bill or rights for law enforcement officers who are charged with wrong doing or who are subject to disciplinary action. The basic concept of the bill certainly is a good one but the committee had other problems with it. For one thing, the bill implies only to municipalities over twenty five thousand which seem to us a bit arbitrary but more importantly the bill seemed to go to far in some respects and would seem to make it rather difficult for a police department to run itself in an efficient manner. Furthermore, it seems that the bill will be in conflict with the existing procedures and perhaps the charter in the city of Manchester where these matters are now heard before the police commissioners and this would remove the hearing of law enforcement officers who are accused of wrong doing from the police commissioners to a special committee set up under this bill. There just seemed to be too many questions and problems at this late hour in order to pass the bill and therefore we are suggesting the committee study it further to see if we can't come up with a workable solution.

Sen. BOSSIE: I rise Mr. President in opposition to the report. To make reference to the later remarks made by Senator Bradley that at this late hour, I'd like the Senate to be aware that I've had this bill in several months and through no fault of anyone except Legislative Services it got out last week. Now I frankly am disgusted over this not because of the way the bill is being handled but because of the fact this is a very serious matter and anything that is over one page in length is going to be thrown in the trash can at this late hour and any bill that's going to be heard tomorrow or Thursday is in big trouble and that just is not right because I know all of us and all of you have favored very hard for your bills only to have them received from legislative services the last week. I realize this is a strong bill and frankly I prefer that I felt in cooperation with other Senators that it would be a good idea to have several other cities involved in this. I just feel the time has come when we've got to put our foot down and tell them we just can't have our bills killed because of the fact that it's them who got it out so late. That's my main objection to it and certainly during the interim study we would be willing to work very hard on it.

Division vote. 9 senators voted yea. 10 senators voted nay.
Motion failed.

Motion of ought to pass.

Division vote: 11 senators voted yea. 11 senators voted nay.

Motion failed.

Senator Saggiotes moved that **SB 268** be laid on the table.
Adopted.

SB 233, relative to legal guardianship of the developmentally disabled. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President this bill is sponsored by you and I will claim no partiality to it. So it may have a chance. Mr. President this bill is one which would permit the superintendent of the Laconia State School to petition the probate court for guardianship of some of the individuals who reside at that particular school and also at the New Hampshire State

Hospital. This was requested of us by the Hillsborough county probate court for particularly Judge Kapartus who had a problem because of the fact that a number of the youngsters at the school once they turn 18 they must have a guardian appointed over them and there are several forms in probate law of guardianship. Guardianship over a mentally incompetent is very difficult to get. It requires three doctors to meet at once and to have a hearing. It call an inquest into whether the person is competent to handle their own affairs. Well, as we know, its tough enough to get one doctor but when you have three you have to get together and you have three you have to pay you have a sheriffs fee that you have to pay to serve the individual who is the incompetent. Quite often these people are so sick and so ill that they don't know what they are receiving. What this does is to permit the superintendent of the state school and state hospital to go to the county in which the individual resides or came from or in the county in which the state school or state hospital is located and to petition the court for the appointment of a guardian. One of the biggest problems up until now is the question of cost to the parents. Most of the parents that have children in these places have a very difficult time to reimburse the state for the actual cost that the State expends on the individuals, so the justice department requested this and it sounds like a very reasonable approach to it and from one who has done this on several occassions its a quagmine. Of course we want to keep the safeguard with one who has been developmentally disabled I think the safeguard would be here.

Adopted. Ordered to third reading.

CACR 24, RELATING TO: A Lieutenant Governor. PROVIDING THAT: A Lieutenant Governor be Elected at the Same Time, with the Same Qualifications, Though Not Necessarily of the Same Political Party as the Governor; He shall be Presiding Officer of the Senate and Shall Perform Such Duties as the Governor may Direct. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President this constitution amendment would be presented to the voters at the 1978 biennial election and the voters of New Hampshire would have occasion to vote at that time as to whether the State of New Hampshire

shall henceforth have a lieutenant governor effective in 1981. Of course, I believe, I have a constitutional amendment before the Senate and heard before the Executive Department now that is somewhat in line with this and that's to do away with the executive council. This has been done in a number of states especially our adjoining states. The effect of this is to have a presiding office of the Senate, the lieutenant governor would do that and we would at the same time the Senate, would have our own president as we do right now. Normally the lieutenant governor would preside and in his place when he's not there the President of the Senate would do it and the President of the Senate on a bipartisan basis and so all committee assignments and referrals of bills and the other occasions that go with being in the high office of President of the Senate would continue. At the same time we have had the occasion in the last few years of having a well traveled governor and not only do I want to criticize the governor but I won't gain any votes here by doing it, but the fact remains that he is well-traveled and he is in some sort of shadow cabinet which is fine. He finds the occasion to be involved in National affairs. I believe our governors should be nationalists and they should be involved in our federal government and in the decision making process. But at the same time we have to have somebody back here minding the kettles. Up until this time we've had the great pleasure of the President of the Senate who acts in place of the governor when he not around and the President of the Senate is therefore deprived of his right to participate in the legislative process even though he may sit in his seat and he may vote he cannot do the job to which the senate itself has selected him to do. Under this bill the legislature would retain their right to determine what the salary of the lieutenant governor would be just as we do for the salary of the governor and I would imagine it would be in the \$24,000 to \$25,000 range. At the same time the duties of the lieutenant governor would be those that are directed to him by the governor as well as those initial duties that may be directed to him by the legislature. I think this would be a progressive step especially in view of the fact that we hope one day we would probably not have executive council. I think this is a progressive step. I don't think it's a very expensive thing. I'm certainly against expending bureaucracies and although this is another title and another individual and notwithstanding my campaign manager Senator Fennelly I do not

want to be lieutenant governor. The fact remains I think its a progressive step and if you go west of the Mississippi almost every state has a lieutenant governor. I know our president attends the National Lieutenant Governors conferences on occasion and he is by this office considered the lieutenant governor now. Well not that I want to move him on to better things but I think we do need the office and if we can do away with certain things and do certain things I think this would be a positive step and after all the people are going to decide. It takes a 3/5 majority. I would take a substantial vote and if we would be in a position to permit the people to vote on it I would certainly not object to it.

Senator Rock moved that CACR 24 be indefinitely postponed.

Sen. ROCK: I have several problems with this legislation Mr. President. The first among them is that I rather enjoy and treasure and relish the opportunity to select the leader of this body. I think thats an important part of our Senatorial duties. Under the terms of this legislation we would lose that opportunity to choose from among the Senators whom we have come to work with, who we've come to know whom we've come to recognize for their ability and talent and prestigious leadership to make them or have them the honor of being Senate President. I also see another problem here that we could very well find ourselves without any legislative background or parliamentary experience sitting in the chair and handling the affairs to a much lesser degree of experience then we are able to do by selecting from amongst our own group that person who will be the Senate President. I'm lead to believe that many of the states who have this type of succession or leadership would much rather be without it and in fact I'm lead to believe some states have moved to do away with the position of lieutenant governor. I feel very comfortable with the line of success that we now have and I can envision the problems encountered where if we were to have on senator drawing the salary of \$24,000 or \$25,000 a year and 24 other Senators getting one hundred dollars a year there might be some small degree of jealousy as they look upon his salary as being slightly higher than ours or if you will, you would have to work 240 years to get the same salary as he would get in one year. I also feel very strongly that we do now and have for many

years we had a good working arrangement where the Senate President elected by his peers has the office of Senate President and would succeed to the governorship with the knowledge and experience that he would gain as being a senator first. I'm very comfortable with the way the present makeup of the senate is. I'm comfortable with our laws this session. I'm comfortable with a salary of \$100 a year and I'd be very uncomfortable with this CACR were to pass and I would hope the Senate would support me in inexpedient to legislate.

Sen. SANBORN: Senator if such a thing as this became part of our constitution would you anticipate that the Lieutenant governor would off by himself alone or do you expect that he might have a secretary, a couple of aids etc. to keep his appointment book for him, write his letters ect.?

Sen. ROCK: Yes I could certainly could envision the building of a layer of bureauacy that would approach the expenses of the House of Representatives.

Sen. BOSSIE: Senator Rock I'm very enchanted to hear that you think we are going to lose the right to choose our own officers. I refer you to page two of the bill article 37 which says the Senate shall appoint their president and other officers in determining the rules of proceedings. In other words what this says is that we don't lose nothing at all. All we have is a person who acts like the Vice President of the United States as being President of the Senate. We don't lose anything at all do we?

Sen. ROCK: Well, I don't agree with you Senator. If he shall be the presiding officer of the Senate and performs such duties as the governor may direct he has the dual capacity to do very much different than we now have because our Senate President performs those duties that we as senators direct and I would not want the presiding officer of the senate to be doing those things that a governor might want to do.

Sen. BOSSIE: And Senator Rock I also took your interest and your remarks that your worried that a President of the Senate might not have the necessary experience with which to conduct the operations of the Senate. I'd like to know whether you thing the executive branch the governorship requires any special training because if you do I never heard you say anything when Governor Thomson who had never been anything but a member of the school board became governor and you never commented any other way upon him.

Sen. ROCK: That is absolutely and positively incorrect

Senator if you will look at the House record and journal you will find one of the first major speeches in opposition to some of the things that Governor Thomson did notably his tax search were form a freshman representative who abhors that kind of thing and I was extremely critical of him and I said the fact that he had no legislative experience and background probably caused him to make that mistake. So I have criticized him.

Sen. HEALY: Senator this particular piece of legislation I would say I'm asking you the strong intent that is to get rid of the executive council?

Sen. BOSSIE: Well, that will be coming tomorrow or Thursday. I would hope that we could do away with it fairly soon.

Sen. HEALY: Senator would you say that if we did not have the council that the appointments coming from the governor might be a little different than they are today, would that be giving the governor additional power to make appointments to different councils and different commissions throughout the years to come if we have a governor a lieutenant governor that would working together?

Sen. BOSSIE: Well, I intentionally put it in the bill that the governor and lieutenant governor could be of opposing parties and I did that for a specific purpose because of its check and balance that the governor is frequently on one tangent or another and I speak not necessarily of this governor but all governors. They get into their routine and I think sometimes it might be wise to have a check on them.

Sen. HEALY: I understand what you say about the lieutenant governor but to answer to a definite question would that not give the governor of New Hampshire more power?

Sen. BOSSIE: I don't see how this would. I would think we would be wanting to take away some of his power and give it to the lieutenant governor.

Sen. HEALY: Wouldn't you say Senator Bossie that appointments coming along that the governor would make definitely his own appointments and there would be no one to say negative to some of these appointments?

Sen. BOSSIE: I think if you would refer to my next bill which will be the executive council and I would hpe that if we were to pass that the senate would be the contifming authority. I think there should be some checks and I think in line

with many of the other states recently its been the appropriate committee of the senate or the senate itself.

Sen. HEALY: Senator don't you think then it would be more responsible situation if that other bill was brought in first and we looked that over before we took action on this particular bill here?

Sen. BOSSIE: Well I think they are quite independent of each other and actually to whether to retain the council or not we could theoretically have a lieutenant governor. I think this is something for the people to determine. We are their representatives all we would be doing is say yes I think the people should be given a chance to determine for themselves whether they want this bill or not.

Sen. HEALEY: Senator at present our President conforms with perhaps most of these regulations deputy governor, lieutenant governor, now he does it at \$100 a year its rather cheap but lets assume we kept the same situation the same form of government and perhaps add an additional for a state senate president to make it more satisfying position where he is involved in so much activity what would your thinking be on that?

Sen. BOSSIE: Here is the problem with that. Obviously the President of the Senate is worth every penny however we have a House of Representatives to contend with. Now if we were going to give the President of the Senate a \$10,000 year for his actions which is often the governor of New Hampshire now what do you think our friend Mr. Roberts across the hall would think of that. He is a full time legislator and he here every day 8 to 5 and he probably would think we need for legislation more House and Senate days and I guess I'm opposed to that. I don't think we need that.

Sen. HEALY: Your responses are interesting about if we maintained the present setup and give noncontributory pensions to our President of the Senate and Speaker.

Sen. SMITH: Senator, your very eloquent remarks on this you muttered something about a 2/3, 3/4 vote I didn't quite follow what you said.

Sen. BOSSIE: Its a 3/5 vote on the adoption of this by the voters of the State of New Hampshire. 3/5 of those people voting at the 1978 general biennial election would determine whether this is accepted as part of our constitution.

Sen. SMITH: The last time as I recall looking at the constitution said it had to be a mandatory 2/3 vote.

Sen. BOSSIE: Well, whatever it is there is no problem.

Sen. SMITH: In some of your remarks you indicated that this is very separate from abolishing the governor and council or the council either way it's o.k. by me. You said that they were related how do they relate in that your not giving the lieutenant governor the power to confirm appointments are you?

Sen. BOSSIE: No.

Sen. SMITH: To approve contracts?

Sen. BOSSIE: No.

Sen. SMITH: Could you tell me in what way they are related?

Sen. BOSSIE: I'm sorry I don't understand your questions would you rephrase it?

Sen. SMITH: It was difficult for me to follow your statement but I'll try to rephrase the question. What is the relationship between this constitutional amendment and one that is coming out tomorrow or the next day relative to the abolition of the council?

Sen. BOSSIE: I think they are relevant to the extent that one is probably CACR 24 and the other one is 25. Other than that they have no direct relationship to one another.

Sen. SMITH: Senator do you think if we defeat this that in future years it might be a fact that governors would stay home more than they do presently?

Sen. BOSSIE: No. I think as a practical matter this is the first of a long step of nationalist government. Whether this governor wants to be an ambassador or what or the next one does I think every person who seeks the office of Governor is ambitious by nature and that he or she would like to aspire to higher national things, be my guest. I just would like somebody home minding the store.

Sen. SMITH: If Governor Thomson continues in office and you were elected lieutenant governor under this bill or this constitutional amendment what function do you think the governor would give to you under this constitutional amendment?

Sen. BOSSIE: I would imagine I would have a lot of time to practice law.

Sen. BERGERON: Just suppose your constitutional amendment went through and there is some stroke you have the same people in the governors office as we have now, would Marshall Cobleigh have a job?

Sen. MONIER: Mr. President I find a couple of things have happened with CACR is, that you've been praised to the high heaven you've also been told that you work for the \$100 which you get and I've found out that the governor and council is going to get involved in some way or another. I rise in support of the current motion which I think after all of the discussion is indefinitely postpone. I do this for two reasons. One is that a lieutenant governor is unnecessary. We have one and he's sitting right up there and even though some of our friends would like to view this for purposes of a traveling governor I think the governors office has been covered very well. Secondly, the amount of money paid and the duties assigned here are not clearly spelled out and I think you'd be creating a political position. Third, I agree with Senator Rocks comment that we could possibly have a presiding officer who is not familiar with the legislative procedure and so forth we are going to wind up with a president anyhow so I see no advantage to this except one more job, one more possibility some additional costs and if we get your other CACR through then we would have it even better. So I rise in position to this CACR and support of the motion.

Sen. LAMONTAGNE: Mr. President members of the Senate I have been in the Senate more than any one in the history of the State of New Hampshire and I have served with Presidents of the Senate for these twelve terms and I always found the system to work out well. I'm in opposition to the ought to pass and in favor of indefinite postponement. Let us leave our system as it is as long as it is working well and it has worked well for 23 years that I remember. At the same time we've never had any problem with absense by the Governor, the President of the Senate always served and we've always had a capable man to replace the President of the Senate for the time he's taking the place of the Governor. So as long as the system is working well I'm hoping that the motion to indefinitely postpone will be adopted.

Senator Saggiotes moved the previous question.

Adopted.

Division vote: 14 senators voted yea. 8 senators voted nay.

Adopted.

SB 154, adopting the uniform controlled substances act.

Ought to pass with amendment. Senator Bradley for the committee.

Amendment to SB 154

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Effective Date. This act shall take effect July 1, 1979.

Sen. BRADLEY: The amendment is on page 27 and is a fairly important one. It changes the effective date to July 1, 1979. The reason for the amendment is this is a rather substantial bill. It's adopting the uniform controlled substances act which is in effect among the state which incorporates the scheme of drug enforcement of the federal agencies. This is to bring us in line with federal drug enforcement and other state drug enforcement. It seems to be the right direction to go. However, the bill really hasn't been given the scrutiny that it ought to have as to how its going to conform with our existing laws, how its going to mesh with other existing laws and in particular the penalties in here are the same as they are now under present laws. I have not studied the bill enough to know myself, but again I think its one of those bills rather than sending it off to study, the way to deal with this sort of thing is to pass it to the House and put on the books if the House agrees with it and in the next two years have it scrutinized and have it amended if necessary.

Sen. TROWBRIDGE: Senator Bradley do you know whether this bill would require any extra administration, namely enforcement people? Drug abuse budget has been very small, as you know, most of it is passed through money from federal agencies you know whether it impacts the budget?

Sen. BRADLEY: There is nothing in here to directly impact. In other words, no new agencies created or anything like that. It basically shouldn't but I can conceive if someone says we've defined more exotic drugs, we've been more specific we need more expertise in order to administer laws. I can see someone making an argument to that affect but I found nothing directly impact.

Amendment adopted. Ordered to third reading.

SB 150, providing an appeal procedure for persons denied a license to operate a motor vehicle for failure to pass a visual acuity examination. Ought to pass with amendment. Senator Bradley for the committee.

Amendment to **SB 150**

Amend RSA 261:3-b as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

261:3-b Appeal Procedure.

I. Any person who is denied a license or reissuance of a license because he did not pass an examination for visual acuity may apply in writing to the director of the division of motor vehicles for a hearing.

II. Upon receipt of such application the director or his designee shall schedule and conduct a hearing to determine if the applicant has sufficient visual acuity to safely operate a motor vehicle.

III. The applicant may submit evidence and call witnesses in his behalf, and with the approval of the applicant, the director may conduct such examination as he deems necessary to determine if the applicant has sufficient visual acuity to safely operate a motor vehicle.

IV. Within 21 days after the hearing, after considering the evidence the director of the division of motor vehicles shall issue a license to the applicant subject to any conditions he may prescribe if the director finds that the applicant has sufficient visual acuity to safely operate a motor vehicle.

Sen. BRADLEY: The amendment is printed on page 26 and is the entire bill except for the effective date. The title of the bill is pretty much self-explanatory. If you are denied a license to operate because of bad eyes this gives you a right of appeal. The original bill provided that you could appear to the Division of Public Health Service. That was objected to by the motor vehicle division so we made the appeal stay within the motor vehicle division.

Sen. TROWBRIDGE: One thing I would just like to mention the Senators is that three years ago I had a constituent, he was about 82 years old and he had been deaf since childbirth and he is an absolute character in Cheshire county and this nice little guy used to deliver mail to everybody over the back

roads and because he acted so queer because he couldn't hear and he had a speech impediment, he went up to take the test and he got turned down. You know he got turned down before he ever got there. They really gave him the test and he came to me to explain what had happened and I went back and had him reexamined and he passed easily when he got reexamined by someone who would take a reasonable look at this person. If it hadn't been for that he wouldn't have gotten it and couldn't have driven. I think that we ought to have a hearing officer giving exams instead of saying, look at this old buck, he can't drive, shouldn't be driving and just wipes him out. So I think we ought to have this procedure and I'm very much in favor of this bill.

Sen. BLAISDELL: Mr. President I am the sponsor of the bill and I put this bill in for a constituent of mine. This young boy college graduate who has driven part of his life, never had an accident, done an excellent job and very careful on the road and all of a sudden they just tell him he couldn't have his license. He really had no appeal this is the reason why I put this bill in and I hope it passes and gives some help to some other people.

Amendment adopted. Ordered to third reading.

SCR 2, to petition the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States which guarantees that a student has the right to attend the public school nearest his home. Ought to pass. Senator Rock for the committee.

Sen. ROCK: Mr. President this bill might well have been submitted at the request of President Carter who is against the gas guzzlers. We think that some of the bussing thats going on in the United States is doing nothing more than guzzling a lot of gas. We think there should be a convention called to propose an amendment which guarantees the student has the right to attend the public school nearest his home. It just seems unthinkable that we spend hours and hours out of these students days to transport them from one side of the city to the other to transport them from one side of the county to the other with no real interest in whether they are getting an excellent education but merely to affect some sort of a mix that someone seems to think is absolutely essential. In many cases

busing them to an area that is so far away that they spend as much time on the bus as they do in the classroom. I hope that the Senate would concur. There was no opposition at the hearing. I know Senator Bradley feels that's no real reason for passing anything because nobody opposed it but it certainly is a good indication that there were many more people in favor of it than there were opposed to it.

Sen. HANCOCK: Senator Rock how does this relate to the supreme court decision on busing?

Sen. ROCK: Constitutional convention as you are well aware senator can change the constitution which in effect negates some of the foolish decisions that the supreme court has made.

Sen. BRADLEY: I rise briefly in opposition to this to point out, as I've pointed out a number of times before I think on the senate floor that there is a great danger in calling a constitutional convention for any purpose no matter how sound it may be that as best anyone can tell this will open up a Pandora's Box to amend any provision in the constitution and I don't want to give some convention that license.

Sen. SANBORN: I heard you make those same remarks I don't know how many times now here in the last four or five years and it's kind of interesting to me do you oppose our 10 years having a constitutional convention here in the State of New Hampshire?

Sen. BRADLEY: No I think that's a good thing to do.

Sen. SANBORN: It's good for us in other words but not good for the country?

Sen. BRADLEY: The machinery is substantially different and we have other methods which are well-proven and work well literally.

Adopted.

(Senator Bossie recorded in opposition to SCR2)

SB 201, relative to the special license for a passenger vessel operating on state waters. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this only affects what might be called New Hampshire's navy. Possibly three ships that are passenger carrying on Lake Winnepesaukee, Lake Sunapee. It

gives them time to have the bar open while they are in port. It only changes the bill to give them a few more minutes in which to serve drinks and possibly make a few more bucks profit. That's all the bill does and we urge its passage.

Adopted. Ordered to third reading.

SB 101, relative to allowable uses of written reports filed after an accident. Ought to pass with amendment. Senator Bergeron for the committee.

Amendment to **SB 101**

Amend the introductory paragraph of RSA 262-A:67, II as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

No report required under paragraph I may be used as evidence in any criminal trial arising out of an accident except that:

(a) the director may use such report in connection with his duties under RSA 268:5.

(b) the director may furnish upon demand of any party to a trial, or upon demand of any court or law enforcement agency, a certificate showing that a specified report has or has not been filed with the director of the division of motor vehicles, and, if such report has been made, the date, time and location of the accident, the names and addresses of the operators and owners of the vehicles involved and the investigating officers, if known.

Sen. BERGERON: Mr. President this bill simply pertains to the use of written reports filed after an accident. It was filed on behalf of Ken Morse the administrative of financial responsibility section. It simply states that accident reports cannot be released when there is a criminal charge pending. Actually the original bill came in for civil as well as criminal. At the hearing there was some opposition to it at a meeting with Mr. Morse, the attorney general was involved everyone agreed that it was best we leave out the civil portion. That's all the amendment does pertaining to criminal removes the civil portion. The committee was unanimous in its passage.

Sen. BLAISDELL: Just for the record Senator Bergeron I want to be sure, would this in any way limit police prosecution in this?

Sen. BERGERON: No Senator. Whats happened here in the event you are involved in an accident with either bodily injury or combined property damages of \$300 the state statutes require that you file a motor vehicle accident report with the state. Whats happened in some instances where there is criminal prosecution these reports have been used against the individual as a direct result of this the Department of Safety has had a problem getting some of the reports in. Some attorneys objected on the grounds of self incrimination therefore Ken Morse took the model code and figured this was one way to relieve his problem of getting the reports in.

Amendment adopted. Ordered to third reading.

SB 228, relative to indicating legislative intent in all statutes enacted by the general court. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President this bill is very simple, it simply requires the legislature to manifest its clear intent in passage of all pieces of legislation for clarification purposes. This simply means after we close the door and go home that there is not someone behind us second guessing us as to exactly what our intent was, it will be clear. The committee was unanimous in its recommendation for passage.

Sen. ROCK: Mr. President at first I thought as we heard this report that as a sponsor of the bill I was very much in favor of what we are doing here. I wonder, however, if we enact this aren't we doing the same thing that we are trying to correct and in that we could very well have someone writing that phrase that is the legislative intent that might be clearly different from what a particular senator had voted for the legislature. In other words if the intent and the reasoning behind the legislation is not clear the legislation itself, who is to deciding how that phrase is to be written. I'm in favor of what we are trying to do thats why I signed the bill but the more I read **SB 228** I'm not sure we are doing what we are trying to do. I will vote for the bill but I do so with the hopes that something else can be done to it to make it more definitive.

Adopted. Ordered to third reading.

SB 239, relative to the appointment, suspension and discharge of deputy sheriffs. Ought to pass. Senator Poulsen for the committee.

Senator Poulsen moved that **SB 239** be indefinitely postponed.

Sen. POULSEN: Mr. President it came to our attention when we had passed the bill that it didn't do the things it was expected to do. On talking with the people who it affects the deputy sheriffs they are of the opinion it would take longer than there is in this session to bring it where it should be so rather than try to keep the bill alive and amendment at some later date its the opinion of everyone that the bill should be killed and started over again in other session.

Adopted.

SB 249, relative to the definition of rule in the administrative procedures act. Ought to pass. Senator Brown for the committee.

Senator Brown moved that **SB 249** be recommitted to the committee on Administrative Affairs.

Sen. BROWN: There are two department heads whom this bill would affect besides others and they could not attend the hearing, was not well advertised in the calendar, they came in to see me this morning and they said, in their opinion, that there is some direct conflict with some rulings which the attorney general had made. I did not have the time to sit down and talk with them. I told them I'd ask that it be recommitted to the committee and research it and make sure that it was correct.

Adopted.

SB 258, permitting veterans of the Vietnam Conflict the use of armories for meetings. Ought to pass. Senator Brown of the committee.

Sen. LAMONTAGNE: So Senator then do I hear you correctly that the same privilege would be given to the Vietnam conflict, as the WWI, WWII, and the Korean is that right?

Sen. ROCK: Senator before they use the state armory would they have to clear out all the "nuc" freaks that are being held there?

Sen. BROWN: Yes.

Sen. LAMONTAGNE: Senator can you tell us whether or not does this mean they would only use it so many times a year or does this mean they can hold meetings there?

Sen. BROWN: They'd have to follow the rules and regulations as presently enforced as applied to the other veterans organizations. They would come under the same rules.

Sen. LAMONTAGNE: So senator then do I hear correctly the same privilege would be given to the Vietnam conflict, the same manner as the WW I, WW II, and the Korean is that right?

Sen. BROWN: Yes. It also includes the Spanish war veterans, the Phillipeans all the veterans organizations.

Adopted. Ordered to third reading.

SB 251, relative to the housing finance agency. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to **SB 251**

Amend RSA 204-B:3 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

204-B:3 Organization of Agency. The powers of the agency shall be in 5 members to be appointed by the governor with the advice and consent of the council. The members who are initially appointed shall be designated to serve terms of one, 2, 3, 4 and 5 years, respectively, from the date of their appointment, but thereafter members shall be appointed as aforesaid for a term of 5 years except that all vacancies shall be filled for the unexpired term. A member shall hold office until his successor has been appointed and qualified. No person who is a member of the New Hampshire housing commission may serve on the agency. One member of the agency shall be a person having experience in the construction of residential

real estate; one member shall be a person having experience in residential mortgage banking; and at least one member shall be a person representing the general public who is neither a banker nor real estate broker nor builder. The members shall elect annually from among their number a chairman and vice-chairman, and such other officers as they may determine. The chairman of the agency on June 30, 1977, shall be a member of the finance agency for a term of 5 years and shall no longer be a member of the housing commission. Meetings shall be held at the call of the chairman, executive director or whenever 3 members so request. Three members of the agency shall constitute a quorum, and the affirmative vote of 3 members shall be necessary for any action taken by the agency. No vacancy in the membership of the agency shall impair the right of a quorum to exercise all the rights and perform all the duties of the agency. Members shall receive no salary for the performance of their duties hereunder, but each member shall be reimbursed for his reasonable expenses incurred in carrying out his duties under this chapter.

Amend RSA 204-B:6 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

204-B:6 Surety Required. Before entering into their duties, the agency shall obtain a surety blanket bond covering each member in the penal sum of not less than \$50,000, the executive director in the penal sum of not less than \$100,000, and the other officers and employees of the agency in the penal sum of no less than \$50,000. Sure surety bond or bonds shall be conditioned upon the faithful performance of the duties of the office covered, shall be executed by a surety company authorized to transact business in this state as surety and shall be approved by the attorney general and filed in the office of the secretary of state. The cost of each such bond shall be paid by the agency.

Sen. POULSEN: Mr. President this amendment is on page 22 of the calendar and it does several things. The bill wants to separate the board housing agency and the housing finance agency and it sets up a procedure of election of the boards of the housing finance agency and specifies that at least one must be by someone who is a builder, someone whose in the residential mortgage banking business and one

from the general public and it specifies quorum requirement as such and also goes into the bonding of these people so its an agency bond rather than an individual bonds which is a big convenience. The two boards will be entirely separate. This board is a volunteer board an unpaid board and they don't want to be obligated to the other duties.

Amendment adopted. Ordered to third reading.

SB 182, authorizing voter registration by mail. Ought to pass with amendment. Senator Hancock for the committee.

Amendment to SB 182

Amend RSA 55:25 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

55:25 Application; Forms. Any such person may apply to the city or town clerk for an appropriate absentee registration form. Such form shall be prepared by the secretary of state, and shall be substantially the following:

VOTER REGISTRATION FORM

(Please print or type)

1. Name

Last
First
Middle Initial
2. Party Preference
3. Address

Street
4.

City
County
Zip
5. Birth Place

City
State
- If a naturalized citizen, give name of court where and date when naturalized
.....
6. Date of Birth

Month/Date/Year
7. Age on date of registration
8. Place where previously registered in New Hampshire and when so registered (if never previously registered in New Hampshire, indicate n/a)
9. Date of registration

I hereby swear, under penalty of perjury, that the answers to the

questions above are true and correct to the best of my knowledge and belief.

.....
(Signature of Applicant)

There shall be printed below the foregoing form the following certificate:

I, ..., the undersigned officer, do hereby certify that on the day of 19, the above named, having satisfied me as to his identity, subscribed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

.....
(Signature of Officer)

.....
(Title)

10 Such affidavit shall be executed before a person authorized to perform notarial acts pursuant to the provisions of RSA 456-A:1. Such officer, upon compliance with the tenor of said certificate, shall execute the same, subjoining thereto proof of his official capacity. Such form shall be forwarded directly to the applicant by the city or town clerk.

Sen. HANCOCK: Mr. President, members of the Senate, **SB 182** authorizes the legal residents of any community in the State of New Hampshire to qualify to vote in an election to register by mail. Now this registration the bill has been amended the amendment is on page 23 of the calendar would provide for certification by a notary public or justice of the peace. Such voter registration forms would be forwarded by the town or city clerk to the supervisors of the checklist. The purpose of this legislation is to offer the greatest possible opportunity to people who are legal residents of the state qualified to vote the greatest possible opportunity to get the registered voters an opportunity to vote and that simply stated is the purpose of the bill.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Monier moved that the Rules of the Senate be so far suspended as to allow committee reports on **SB 277, 263, 237, 222, 219** with only one day's notice in the journal.

Adopted.

SB 277, amending the state industrial development act. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President these were the bills that were scheduled incorrectly in one calendar and had to be re-scheduled, they were actually posed twice but not at the proper time, however, hearings were held on them and they were open to the public.

Sen. MONIER: Mr. President this is a bill that allows a water department, private corporation to be financed underneath the industrial development act. It specifically applies to the Pennachuck water company located just north of Nashua. Testimony was heard on this and I asked for concurrence from the industrial authority development on this and they provided us a letter to that effect. What we are faced with here is that the clean water act which has been out for some period of time from federal government has provided money to put into these facilities necessary for sewage treatment and so forth in order to provide it. The clean drinking water act has not had that money provided to it and in this particular case Pennachuck needs to have this kind of a system and it would save the consumer in the vicinity of \$81,000 to \$120,000 in costs. We are checking with the industrial authority act in the industrial development commission we found they had no objections to this. As a matter of fact their bond council of Palmer and Dodge assisted in writing this bill to provide for this. What it does is provides that an agency of a water nature of this characteristic can come underneath the current statute which provides the industrial development act to allow for bonding of that particular thing. This brings about lesser cost and saves the consumer. There is a possibility they could save between \$81,000 and \$120,000 on the cost. For that purpose the committee heard testimony on it and urge its adoption.

Senator McLaughlin moved to lay **SB 277** on the table.

Adopted.

SB 263, establishing a procedure to discontinue certain capital reserve funds. Ought to pass. Senator Brown for the committee.

Sen. BROWN: Mr. President under the present law the town goes into a capital reserve fund then later they decide they do not need it, there is no way they can revert that money that's been accumulated into the treasury. It has to be spent on a capital expenditure. This bill will allow for the people to vote to return that money to the treasury of the town.

Adopted. Ordered to third reading.

SB 237, concerning the affidavit used in case of voter challenge. Ought to pass. Senator Brown for the committee.

Sen. BROWN: What this bill does is it deletes on the voter registration voter challenge card the words "read or write". In other words the illiteracy it takes up which was a ruling of the supreme court of the United States.

Adopted. Ordered to third reading.

SB 222, authorizing the town of Peterborough to appropriate money and authorize borrowing for water purposes at special town meetings. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President we have passed during the last session **SB 9** which provided for Peterborough to meet the needs of a bond council in terms of one of their town meetings. At the same time in researching that they found that the general law and the town of Peterborough have problems with an 1890 statute. What this has done is to correct is so the bond council doesn't have those kind of problems at all time. Mr. Loan came and testified for Senator Trowbridge I was going to refer it to him in case he had comment but I verified this with him that there was no problem. The bond council drafted

this legislation so that the town of Peterborough would not have the problem that they had previously when their town meetings when meeting the requirements for their water activity. We urge your passage of the bill.

Adopted. Ordered to third reading.

SB 219, permitting a town on an optional fiscal year basis to hold a second session of the annual town meeting. Ought to pass. Senator Brown for the committee.

Sen. BROWN: Under present law there are towns that hold their town meetings on a calendar year and vote at the town meeting to have their business meeting a few days later. This bill allows towns that are on the fiscal year who have their own meeting in May to do the same thing.

Sen. BOSSIE: Mr. President I rise in support of the committee report. This certainly is a defect in the law. One which probably wasn't recognized when those who adopted the May town meeting. I think this would be a good thing to correct a problem that may exist for a lot of towns. I would certainly favor this proposal.

Adopted. Ordered to third reading.

Special Order 1:01

SCR 3, establishing a special committee to study tax reform at all levels of government.

Motion of "Ought to pass."

Sen. BRADLEY: I just want to rise as one of the former sponsors and I guess the present sponsor as well on this bill and I don't think anything much more needs to be said on the subject. Its obviously something that needs to be done.

Sen. BLAISDELL: I'm a co-sponsor of this. I introduced this in the last session of the legislature. I truly believe that if we had this working for the past two years probably we would have some direction on where to go in this state on tax reform. I think all that has to be said has been and I ask your support to just to set up a study committee just look into it. I think its pretty simple that everybody here is involved not all broad

based taxes. They are just people interested in state government and I ask your support.

Senator Blaisdell requested a roll call. Seconded by Senator Foley.

The following senators voted yea: Smith, Bradley, Blaisdell, Trowbridge, Keeney, Hancock, Downing, Preston, Foley.

The following senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Bossie, Fennelly.

9 yeas 14 nays

Motion failed.

Senator Downing moved that SCR 3 be laid on the table.

Division vote: 7 senators voted yea. 14 senators voted nay.

Motion failed.

Senator Monier moved that SCR 3 be indefinitely postponed.

Adopted.

SUSPENSION OF RULES

Senator Trowbridge moved that the rules of the Senate be so far suspended as to allow committee reports on **SB 81, 168, 247, 59** and **HB 311** not previously advertised in today's journal.

Adopted.

Senator Bossie moved that **SB 268**, relative to the rights of law enforcement officers be taken from the table.

Division vote: 13 senators voted yea. 3 senators voted nay.

Adopted.

Senator Bossie moved an amendment to **SB 268**.

Sen. BOSSIE: Mr. President the amendment has been distributed to the members of the senate and presented to the

clerk with a sufficient number of copies. Basically, this amends the bill so that it would apply to any municipality over 75,000 population thus, it would only apply to the city of Manchester. I believe the entire Manchester delegation agrees to the amendment and to the bill so we encourage you to adopt this with this amendment.

Sen. ROCK: Senator Bossie are you aware that the population of Nashua is rapidly approaching 17,000 that it is now in excess of 68,000?

Sen. BOSSIE: I'm glad.

Sen. ROCK: Are you further aware Senator that there is some strong concern among the Nashua delegation as opposed to the Manchester delegation. We have no strong feeling about the Manchester's wishes here but there are some strong reservations among representatives from the Nashua area that they may not want before this legislature meets again to be included in this because of their population increase.

Sen. BOSSIE: Senator I might say this, this is a method to get this bill to the House and we would have no objection to include the Manchester delegation once it gets to the House to amend it to make it 88,000 or whatever would be agreeable to you in Nashua.

Sen. ROCK: Would you be agreeable Senator to preclude any misunderstanding as we oftentimes know happens on the other side of the wall, that you amend it to say Manchester if thats why you really mean and then I'm sure you'd have our support?

Sen. BOSSIE: I don't think its really necessary.

Sen. ROCK: You say its not necessary not withstanding the fact that I quoted that our population is 68,000 and before this legislature meets again it could be 75,000?

Sen. BOSSIE: See Senator we would have no objection once it gets to the House for you to come over and we'll agree when we present it that the Nashua delegation the senate doesn't want 75,000 they want 88,000 or just apply to Manchester. We have no problem there. We'll work with you on that.

Sen. ROCK: Would you work with us on it now?

Sen. BOSSIE: No. I have taken the time to consider this again have this prepared and if you want to put it on the table again to get these amendments I have no problem with that. Can you get it out today? Would you make it 88,000 rather than Manchester, I think thats better?

SUSPENSION OF RULES

Senator Trowbridge moved that the rules of the Senate be so far suspended as to allow an amendment without proper printing at the present time.

Senator Smith moved that **SB 268** and the proposed amendment be laid on the table.

Motion failed.

Senator Trowbridge's motion adopted.

Senator Rock moved to substitute an amendment for the amendment as offered by Senator Bossie.

Amendment to **SB 268**

Amend RSA 106-F:1, I and II as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. "Law enforcement officer" means any person who, in his official capacity as a member of a law enforcement agency in a municipality with a population in excess of 85,000 is authorized to have the power of arrest.

II. "Hearing committee" means a committee from within a law enforcement agency of a municipality with a population in excess of 85,000 which is authorized to hold a hearing on a complaint against a law enforcement officer.

Sen. FENNELLY: I rise in opposition to the pending amendment. First of all as co sponsor of this bill Senator Bossie cities over 25,000 which Dover has and so does Concord seems like somehow we got this as a Manchester bill population over 75,000 and I think all law enforcement officers are on an equal basis in Dover as well as Manchester and I don't see any reason on population. I might offer an amendment to reduce it for everybody. But the point is that Manchester is the largest city but I think my area the seacoast, Portsmouth, Dover, Concord, over 30,000—25,000 people should have the same right as the Manchester officers.

Sen. MONIER: I look at this carefully and find out what we are really doing is saying the police commissioner who are appointed here at the state level in the various towns or cities or municipalities are in a sense **SB 268** is bypassing them now

or making them ineffective with respect to control of the law enforcement procedures. Am I correct?

Sen. FENNELLY: That is correct.

Sen. MONIER: Then in truth the intent of the original bill was to remove from the police commissioner in the various towns and municipalities the authority they now hold?

Sen. FENNELLY: That is correct. In Dover we don't have police commissioners.

Sen. SANBORN: Senator would you refresh my mind but we've been discussing police commissions more than we have rights of policemen; but didn't we, last week, or week before, didn't we pass a bill abolishing the police commission in the city of Claremont was it?

Sen. FENNELLY: I don't recall Senator Sanborn. I probably wasn't here. I think I was in Washington at that time.

Sen. SANBORN: Perhaps somebody else could clear my mind on that.

Sen. HEALY: Mr. Chairman the original bill brought in on this law enforcement regulation was submitted for the city of Manchester only and later on it was amended to bring in other communities which is listed here in the analysis of 25,000; but originally the bill was for the Manchester police department.

Amendment adopted. Ordered to third reading.

Senator Sanborn moved that **SB 217**, prohibiting smoke bombs be taken from the table.

Adopted.

Senator Sanborn moved the following amendment.

Amendment to **SB 217**

Amend RSA 644:16-b, II as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

II. Any person who sells, barter, lends or gives to any person a smoke bomb, with the exception of persons or groups entrusted to the protection of lives and property who would use such a device for training purposes, such person who uses a smoke bomb in a public place shall be guilty of a violation.

Sen. SANBORN: Mr. President I believe the amendment is on the desk of each Senator here and the only thing that it does is add the words with the exception of persons or groups entrusted to the protection of lives and property who would use such a device for training purposes. As the Senate remembers when Senator Bradley was explaining the bill and I questioned him, this would make it illegal for fire departments to use a smoke bomb for practice purposes in the so-called smoke shed that many of the bigger departments and many of the various cooperative fire departments used to train their personnel in the use of the air mask. Senator Bradley's agrees with the amendment I proposed and I hope the Senate will accept it.

Sen. BRADLEY: I just want to say this is obviously an improvement to the bill something the committee had overlooked and in appreciation to Senator Sanborn.

Amendment adopted. Ordered to third reading.

SB 81, relative to the penalty of wilful trespass involving forest product. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Under existing laws there is a civil penalty on the statute books for anyone who willfully, that is intentionally, cuts down and carries away another persons timber and its for most kinds of lumber and trees. This particular penalty has been found to be deficient in a case where the trespasser is about to run off there is no way you can get your hands on him with only a civil penalty on the books so what this statute is also adding a criminal penalty so that the trespasser could be arrested and held both for the criminal and civil provisions. This was introduced by our expert on wood products in the senate, Senator Poulsen.

Adopted. Ordered to third reading.

SB 168, adopting a safe drinking act for New Hampshire. Ought to pass with amendment. Senator Hancock for the committee.

Amendment to **SB 168**

Amend RSA 148-B:1, V as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

V. "Operator" means the individual who has direct management responsibility for the routine supervision and operation of a public water system or of a water treatment plant or collection, treatment, storage or distribution facility or structure that is a part of a system.

Sen. HANCOCK: Mr. President members of the Senate the amendment is rather simple. It merely deletes one sentence which relates to an operator. "Operator" means the individual who has direct management responsibility for the routine supervision and operation of a public water system or of a water treatment plant or collection, treatment, storage or distribution facility or structure that is part of a system. There was objection to not including or to including in reference to a shift operator. This amendment was agreed to was proposed by the city of Manchester representative and was agreed to by the Water Supply and Pollution Control commission. The safe drinking water act was introduced at the behalf of the water supply and pollution control commission and it will enable the State of New Hampshire to be in compliance with the Environmental Protection Agency drinking water requirements as set forth in public law 93523. The bill regulates any public water system which is defined as a system that supplies a variety of people. I'll not go into the details of it. There will be public hearings on the regulations which will be proposed by the commission and this will provide the State of New Hampshire with safe drinking water.

Amendment adopted. Ordered to third reading.

Senator Sanborn moved to reconsider the action whereby we ordered **SB 217**, prohibiting smoke bombs, to third reading.

Adopted.

Senator Sanborn moved the following amendment to **SB 217**.

Amendment to SB 217

Amend RSA 644:16-b, II as inserted by section I of the bill by striking out said paragraph and inserting in place thereof the following:

II. With the exception of persons or groups who use smoke bombs for training purposes to protect property or lives, any person who sells, barter, lends or gives to any person a smoke bomb and any person who uses a smoke bomb in a public place, shall be guilty of a violation.

Amendment adopted. Ordered to third reading.

SB 247, relative to the limitation on receiving assistance from the federal government and state for sewage disposal facilities. Ought to pass with amendment. Senator Keeney for the committee.

Amendment to SB 247

Amend RSA 149-B:1 as inserted by section I of the bill by striking out same and inserting in place thereof the following:

149-B:1 State Contributions. The state of New Hampshire shall, in addition to the federal grant made available under the provisions of Public Law 660, 84th Congress (subsequent amendments thereof, or any other federal legislation), pay annually 20 percent of the yearly amortization charges, meaning principal and interest, on the original costs resulting from the acquisition and construction of sewage disposal facilities by municipalities (meaning counties, cities, towns or village districts), in accordance with RSA 148:25, RSA 149:4, IX and XIII, for the control of water pollution. The word construction shall include engineering services, in addition to the construction of new sewage treatment plants, pumping stations and intercepting sewers; the altering, improving or adding to existing treatment plants, pumping stations and intercepting sewers; provided the construction has been directed by the water supply and pollution control commission, or constitutes

a voluntary undertaking designed to control or reduce pollution in the surface waters of the state as defined in RSA 149:1, and the plan therefor is approved in compliance with the provisions of RSA 148:25, RSA 149:4, IX and XIII. The term "original costs" as used herein shall mean the entire cost of the construction as defined in Public Law 660, 84th Congress (subsequent amendments thereof, or any other relative federal legislation), excluding land acquisition. In computing said costs no deduction shall be made for federal grants therefor. Nothing contained in this chapter shall be construed to entitle municipalities to receive a combination of United States Environmental Protection Agency and state financial assistance in excess of 95 percent for the construction of sewage disposal facilities as defined herein.

Sen. KEENEY: The amendment to **SB 247** strikes out the figures 30% and inserts 20% on the first page of the bill under state contributions fifth line down in that paragraph. This was by agreement of the sponsor. The bill itself is to allow cities and towns to at the present time cities and towns can get a total of 95% grant from U.S. and state monies this would allow them instead of having to put up their 5% to get additional grants not necessarily from environmental protection agency and it was of particular interest to the city of Berlin at the present time.

Amendment adopted. Ordered to third reading.

SB 59, relative to cease and desist orders issued by the water supply and pollution control commission. Ought to pass with amendment. Senator Foley for the committee.

Amendment to **SB 59**

Amend RSA 149:19, III-a as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

III-a. The written cease and desist order issued pursuant to the provisions of paragraph III shall be recorded by the commission in the registry of deeds for the county in which the property is situated and upon recordation, said order shall run with the land; provided, however, that an appropriate descrip-

tion of the land involved including the accurate name of the owner thereof shall be incorporated in the cease and desist order. No fee shall be charged for recording such an administrative order; however, the fee for discharge of any such order shall be the same as for the discharge of a real estate property.

Sen. FOLEY: The amendment is on page 22 on April 29 senate calendar and its also been distributed today. This bill provides that any cease and desist order from the Water Supply and Pollution Control Commission should be recorded by the register of deeds. This will take care of anyone who has a cease and desist order and then puts it away and sells the property and then the person who buys the property later finds out there has been a cease and desist order and he has a lawsuit on his hands. This would protect it by having the cease and desist orders recorded with the registry of deeds. The amendment says thats no fee will be charged for the recording of it, however the fee for the discharge will be the same as a discharge for real estate mortgage. We recommend its passage.

Sen. BERGERON: Senator, does this bill have any bearing on a municipality whereby they may be under orders from the water supply to cease and desist?

Sen. FOLEY: Well, I would presume that it would be recorded. I don't know. This says the recording in the registry any cease and desist orders issued by a water supply and pollution control. I imagine it would be. I don't see any necessity for that because you wouldn't be selling the city.

Amendment adopted. Ordered to third reading.

HB 311, relative to notice by the conservation commission to the water resources board on local investigations pending dredge and fill approval. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: HB 311 would extend the time that a local Conservation Commission would have to investigate and ask for a public hearing on any dredge and fill request in the community. At the present time they have only 7 days. This is short for many of the Conservation Commission to meet and therefore the public interest is not being protected locally. This bill would give them 14 days and if they had no reason to

ask for a public hearing within that time the dredge and fill order would stand.

Sen. ROCK: In the testimony on this bill did anyone from the Water Supply and Pollution Control appear?

Sen. KEENEY: I don't have written minutes of this bill. Appearing in opposition was a Mr. Willard Gowan and his writing said he was objecting only to time delays on the part of those who had requested dredge and fill.

Sen. ROCK: On your sign up sheet do you have anyone from the Water Supply and Pollution Control who appeared in favor of it?

Sen. KEENEY: No.

Sen. ROCK: Did Mr. McGee appear at the hearing?

Sen. KEENEY: Mr. McGee was at the hearing we had a number of bills and I can't be absolutely sure whether he spoke on this particular bill or not. As I said I don't have the minutes.

Sen. HANCOCK: As I recall Mr. McGee did speak on that but I don't remember that he was opposed to it. He may have been. He was opposed to a number of things during the day.

Senator Rock moved to lay HB 311 on the table.
Adopted.

Senator Rock moved to reconsider the action whereby we ordered **SB 154**, adopting the uniform controlled substances act, to third reading.

Sen. ROCK: Mr. President I voted with the majority based on the testimony given by the esteemed Senator from district five. I find, however, now at my leisure in reading the bill more thoroughly that there is a section in the bill that concerns me somewhat. I don't know if the good members of the Senate still have the copy of **SB 154**. Its a rather lengthy bill. You remember that the amendment to the bill that was in your journal changed the effective date to 1979 and part of the testimony that we heard was that if there is a problem with the bill then we can certainly find it corrected in the period between now and then. I would like to quote from **SB154** on page 30 under 318-C:409 possession and distribution of marihuana. (a) Section 401 (a) and (c) do not apply to the following acts which, except as provided in subsection (c), are not unlawful (1) possession of marihuana by an individual for personal use;

(2) distribution of small amounts of marihuana by an individual for no remuneration or insignificant remuneration not involving a profit. (b) Possession by an individual of not more than one ounce of marihuana is presumed to be for personal use under subsection (a). (c) Notwithstanding subsection (a), it is unlawful for any individual knowingly or intentionally to so on and so forth. This is rather confusing to me. I really may not understand what we are discussing in the light of handling this bill as we did today and I don't take any offense with the bill being reported or the way that Senator Bradley reported it. I'm just confused as to what we are saying is not unlawful and I don't intend to let this bill get out of here today until I've had a chance to further study what we are saying under 318-C:409 for if in fact we are saying as it says that its not unlawful for one to possess marihuana for personal use and distribution of small amounts of marihuana and I don't want to vote for that. Thats why I asked for reconsideration. I urge my colleagues to vote yes that we reconsider our action.

Sen. BRADLEY: I rise in support of the motion to reconsider. This is a bill frankly that I had not had time to study myself the care that I like to take with our bills. The testimony from representative from legislative services wat that he thought the penalty provisions of the law were more or less consistent with present law. That was one of the things that he felt should be studied further. That was one of the reasons why we put the effective date on there that we did so the matter would be studied. However, in view of the questions that Senator Rock has raised which are clearly substantive and controversial kinds of issues I don't think we should pass it, I think we should reconsider the thing. I think it ought to come back and I would then ask to have the bill sent to interim study. So the penalty provisions could be compared with existing law and made consistent with existing law.

Sen. MONIER: I rise in support of this. Senator Rock brought out a very good point on **SB 154** on page 30 and its one of the dangers we run into and I appreciate Senator Bradleys comments on it in supporting the reconsideration. Its this kind of a problem that bothered us on some of the last bills no because we had any objection to the committee or anything else but if you don't have them in front of you and you haven't had the time to at least look at them or check what you're doing with them you really don't know what you're doing. I for one am not going to vote for it. I voted for **SB 154** and I

strongly support that we do reconsider this action immediately.

Sen. LAMONTAGNE: Mr. President, members of the Senate, I rise in support of the motion. If I had been here this morning I would have definitely been opposed because I had planned to make a motion to indefinitely postpone this bill because I didn't feel that the different sections in that bill referring to changes which I had been told that the fines had been changed the same time the effective date which is the amendment come into effect in 1979. I'm definitely opposed to any drugs of any kind.

1979. I'm definitely opposed to any drugs of any kind getting any legislation through.

Sen. SANBORN: Mr. President I too rise to support the motion of Senator Rock and as I read down here further 318-C:501 we start in any officer or employee of the division designated by the director may carry firearms in the performance of duties, serve warrants, make arrests and I'm wondering how many more people were added to group II in our retirement system when we get into this. Might be of interest.

Sen. MONIER: Senator could you just eliminate a little bit, was this bill at the suggestion of some agency or what? I don't see it on the analysis I was just wondering if you remembered from the testimony.

Sen. BRADLEY: The principle spokesman for the bill was Mr. Jennings of Legislative Services. I thought it had been recommended by Judicial Council or something like that and it was presented to us as a bill to bring our laws in line with other states who adopted this uniform controlled substances act and the federal law. If there is anything in there that appears to be a substance change in existing laws with respect to penalty it shouldn't go through on the basis even if the effective date is two years.

The CHAIR: The bill was asked for by Mr. Coolidge who is a lawyer and I believe is part of a commission headed up by the governor.

Adopted.

SB 154, adopting the uniform controlled substance act.

Senator Bradley moved that **SB 154** be referred to interim study by Judiciary.

Adopted.

(Senator Lamontagne recorded in opposition.)

SUSPENSION OF RULES

Senator Smith moved that the rules of the Senate be so far suspended as to allow the introduction of committee reports on **SB 244**, **290**, and **306** not previously advertised in the journal, and with only one day's notice of hearing.

Sen. SMITH: Mr. President the motion is to suspend the rules as far as advertising in the journal and also we only had one day notice of the hearing in the calendar so both of those rules would be suspended. These three bills are **SB 244** concerning the vocational technical colleges and what it does is change the name from institute to college and that bill was approved by the committee yesterday and there was no opposition to it. We were told there would be no cost because the signs are already up saying college instead of institute on the various campuses. The second bill **SB290** is relative to state library acting in an advisory capacity to state institutional libraries. What this bill does is to line out the authority for the state library to advise, assist, and aide the various institutional libraries. This has been on a hit or miss basis for many years. The state library came in in favor of it and a number of the institutions including the Prison, the Hospital, Laconia State School all came in in support of it to give continuity to the library services. **SB 306** authorizing the governor to enter into a contract with schools of dental medicine to guarantee openings for qualified New Hampshire students and making an appropriation therefor is a bill which we have had before or has been introduced before. There was testimony on the bill all in favor of it due to the fact it is very difficult for dental students to find places because either the dental schools are saving them for thier own students or there is a contract with other states and this bill have to be under the rules referred to finance and would like it to go there so the finance committee can have a look at it and I hope the Senate would suspend the rules on all there bills.

Adopted.

SB 244, concerning vocational-technical colleges. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: Yes, Mr. President as Senator Smith already said basically the one thing that the bill does is clear up the various RSA's relative New Hampshire Vocational Institute and changes to the word College. This does not change the one here in Concord that will remain an institute. There is one change here that Senator Foley might be interested in. It seems that presently in the law the way they are interpreted by the attorney general the college in Manchester and the college in Portsmouth are required to be inside city limits. There is no problem with the college in Manchester but the college in Portsmouth was built on built up land and is slowly sinking out-of-sight. In order to find a suitable piece of land for the future construction of a college that will not sink out of sight and will still remain in the Portsmouth area. They requested that it be changed to the Portsmouth area so they can move across the line into Greenland or Rye and build it on a good solid ledge and won't sink out of sight and this is the only other change that was not described by Senator Smith.

Adopted. Ordered to third reading.

SB 290, relative to the state library acting in an advisory capacity to state institutional libraries. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: Mr. President RSA 201-A:2 establishes five different paragraphs relative to the advisory service of the state library. All this bill does is as Senator Smith has already indicated adds a sixth section VI advisory service to state institutions allows them to assist these various institutions, Laconia State School, Prison, Hospital the YDC and so forth to set up and work their libraries on their own and just give them advice and so forth from the State library. We suggest its passage.

Adopted. Ordered to third reading.

SB 306, authorizing the governor to enter into a contract with schools of dental medicine to guarantee openings for

qualified New Hampshire students and making an appropriation therefor. Ought to pass. Senator Smith for the committee.

Sen. SMITH: As I once explained the bill what it does is allow up to a total of 15 residents into out of state dental school due to the fact that we have no dental schools in New Hampshire and under the rules the bill must be referred to Senate Finance and I hope the Senate will allow it to go to finance.

Sen. FOLEY: Senator Sanborn on your possible removal of the vocational technical college in Portsmouth you specifically named Greenland?

Sen. SANBORN: We did not specifically name any town.

Sen. FOLEY: What to you call immediate Portsmouth area?

Sen. SANBORN: I guarantee its not Dover.

Sen. FOLEY: The only thing is that I heard a rumor that it was Rochester.

Sen. SANBORN: No it wasn't. The only thing that the Department of Education mentioned to us was Greenland or Rye were the only two towns mentioned and we will continue to believe and hope that it is in the legislative intent that it would go no further than either one of those two towns.

Referred to finance.

SUSPENSION OF RULES

Senator Bergeron moved that the rules of the Senate be suspended so far as to allow a committee report on **SB 279** not previously advertised in the journal.

Adopted.

SB 279, relative to group health insurance coverage for certain retired state employees. Ought to pass. Senator Rock for the committee.

Sen. ROCK: The matter contained in this bill Mr. President and members of the Senate came to my attention from a constituent who has worked for 41 years for the State of New Hampshire. Way back when the dollars were very important and when the individual concern did not wish to remain in the

retirement system the person withdrew with the full knowledge that they would not be eligible for the full retirement benefits. Last year we mandated a benefit for state employees in the way of an increase for blue cross/blue shield coverage. The statute is rather unclear as to where the individual who had served for 41 years would be not as far as retirement payment would concern but blue cross/blue shield benefits and inquiring of the various departments concerned individual was told that because it didn't clearly state that they would get the blue cross blue shield benefits on retirement they in fact would not get it. I don't think that was ever our intent. We are talking about 6 individuals who withdrew from the retirement system, are not trying to get back into the retirement system but are indeed entitled to the blue cross/blue shield upon retirement that we give all our state employees. This will allow that to happen. The best way is to go the statutory route that's as best I can report it at this time.

Adopted. Ordered to third reading.

Senator Rock moved to reconsider the action by which **SB 258**, was ordered to a third reading.

Sen. ROCK: Mr. President I am totally in favor and wholly supportive of **SB 258** and I voted in favor of it and I would continue to vote in favor of it as it stands. It has been brought to my attention, however, too late for any action in the House, that we are in a sense discriminating against some of our veterans as their benefits would pertain to the real estate residential \$50 rebate, the \$50 reduction they get in their service exemption. I understand that **SB 258** is Senator Saggiotes bill he is not here. I had intended to discuss this reconsideration with him. I think what I would like to do at this time is move for the reconsideration. I have the amendment prepared just reconsider it and tomorrow when senator Saggiotes is here I'll pass out the amendments. What the amendment does it says that we would be following the lines of the federal governments, the VA, the American Legion, the Veterans of Foreign Wars wherein if you serve in the United States Army in any wars of conflicts that we've already discussed within the period of 90 days what Mr. Price is saying at revenue administration is that your entire 90 days have to be served within the period of the conflict. What the amendment says as long as

you started your service somewhere in that 90 days following the guidelines that the federal government, the VA, and the American Legion use you would be eligible for the benefit. We can discuss that tomorrow. I move we adopt reconsideration now and urge my colleagues vote yes.

Adopted.

SB 258, permitting veterans of the Vietnam Conflict the use of armories for meetings.

Senator Rock moved to lay **SB 258** on the table.

Adopted.

Sen. POULSEN: Mr. President we are waiting for an amendment that would have been here today and still hasn't got here. The amendment is good and is probably necessary to the bill. We didn't know about it at the time and passed it without knowing of the writing of this amendment which would help the bill.

Adopted.

SB 163, relative to the fee for the renewal of land surveyor's certificates of registration.

Senator Poulsen moved to lay **SB 163** on the table.

Adopted.

Senator Rock moved that **HB 73** be taken from the table.

Adopted.

HB 73, relative to mental health services for minors.

Motion of ought to pass with amendment.

Sen. ROCK: Mr. President I realize what the sponsor of the amendment may be trying to do. I don't believe it does it. I don't believe the bill does anything anybody wants it to do. I'm very much opposed to the bill. I don't think the amendment accomplished anything and I urge to defeat the amendment and defeat the bill.

Sen. BERGERON: Mr. President I rise in support of the complete demolition and destruction of **HB 73** with all amendments. This is nothing more than a breakdown of the family structure. We've seen evidence in this with our free

birth control clinics and some of the other clinics these people have proposed. It appears to be causing more problems than it solves. What we've done is taken the responsibility and the perogatives away from the parents who know the child best and completely dumped it in the lap of some stranger. I for one would not tolerate anyone interfering with my perogative as a parent. I know my family problems or if I don't I'm sure someone will be kind enough to point them out and I don't need a third disinterested, unaffected individual treating my children, therefore, I strongly urge the defeat of **HB 73** with all amendments.

Amendment failed.

Senator Rock moved that HB 73 be indefinitely postponed.

Sen. BRADLEY: I just want to rise briefly. We've already debated this bill I don't want to rehash it but I think the Senate ought to be reminded this is an important issue. It just isn't housekeeping that if we kill this bill we are killing an important bill the merits which have been fully debated and pointed out by others in the Senate including myself. I want to be on record as opposing the killing of this bill.

Senator Monier requested a roll call. Seconded by Senator Bergeron.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Monier, Blaisdell, Rock, McLaughlin, Keeney, Sanborn, Provost, Brown, Fennelly, Downing, Preston.

The following senators voted nay: Smith, Bradley, Trowbridge, Hancock, Healy, Bossie, Foley.

15 yeas 7 nays

Adopted.

Senator Rock spoke under rule No. 44.

ANNOUNCEMENTS

The Senate will meet at 11:00 on Thursday May 5 and 1:00 p.m. on Friday, May 6.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, May 4 at 1:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

SB 261, relative to the service of writs and other process.

SJR 3, requesting the judicial council to study the problems of collection on judgments and issuance of executions and to propose corrective legislation.

SB 214, prohibiting the possession or sale of devices used to defraud communication companies.

SB 210, recodifying the probate laws of the state and incorporating some of the provisions of the uniform probate code.

SB 233, relative to legal guardianship of the developmentally disabled.

SB 150, providing an appeal procedure for persons denied a license to operate a motor vehicle for failure to pass a visual acuity examination.

SB 201, relative to the special license for a passenger vessel operating on state waters.

SB 101, relative to allowable uses of written reports filed after an accident.

SB 228, relative to indicating legislative intent in all statutes enacted by the general court.

SB 251, relative to the housing finance agency.

SB 182, authorizing voter registration by mail.

SB 263, establishing a procedure to discontinue certain capital reserve funds.

SB 237, concerning the affidavit used in case of voter challenge.

SB 222, authorizing the town of Peterborough to appropriate money and authorize borrowing for water purposes at special town meetings.

SB 219, permitting a town on an optional fiscal year basis to hold a second session of the annual town meeting.

SB 217, prohibiting smoke bombs.

SB 268, relative to the rights of law enforcement officers.

SB 81, relative to the penalty of wilful trespass involving forest product.

SB 168, adopting a safe drinking act for New Hampshire.

SB 247, relative to the limitation on receiving assistance from the federal government and state for sewage disposal facilities.

SB 59, relative to cease and desist orders issued by the water supply and pollution control commission.

SB 244, concerning vocational-technical colleges.

SB 290, relative to the state library acting in an advisory capacity to state institutional libraries.

SB 279, relative to group health insurance coverage for certain retired state employees.

Adopted.

Senator Lamontagne moved to adjourn at 5:20 p.m.

Adopted.

Wednesday, May 4

(Senator Sanborn in the Chair.)

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, help us to discern the important from the unimportant as we face the rush and pressing demands of the Senate, these days.

May thy holy spirit draw us together and ease our weariness and also the temptation to give up, too easily too soon. Help us not to forget the little needs of the people which are so very important to us all.

Guide us with thy all encompassing wisdom.

Amen

Senator Gardner led the Pledge of Allegiance.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 50, 327-357 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 50, relative to restructuring the public utilities commission and making an appropriation therefor. (Rock of Dist. 12; Saggiotes of Dist. 8; Bossie of Dist. 20; Rep. Lessard of Stratford Dist. 20; Rep. Cornelius of Grafton Dist. 13; Rep. Proctor of Cheshire Dist. 14—To Executive Departments, Municipal and County Government)

SB 327, adopting the uniform amendments to article 9 of the uniform commercial code. (Jacobson of Dist. 7—To Administrative Affairs)

SB 328, restructuring the office of legislative services and creating an office of revisor of the statutes. (Jacobson of Dist. 7—To Administrative Affairs)

SB 329, establishing a board of judiciary to administer the state's courts and making an appropriation therefor. (Jacobson of Dist. 7—To Judiciary)

SB 330, relative to protests in zoning ordinance change. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

SB 331, relative to rehearings on zoning board of adjustments decisions. (Jacobson of Dist. 7—To Executive Departments, Municipal and County Government)

SB 332, establishing a statewide public defender system and making an appropriation therefor. (Jacobson of Dist. 7—To Judiciary)

SB 333, establishing a department of transportation. (Monier of Dist. 9; Sanborn of Dist. 17; Rock of Dist. 12; McLaughlin of Dist. 13; Provost of Dist. 18; Lamontagne of

Dist. 1—To Executive Departments, Municipal and County Government)

SB 334, relative to the transfer of the Manchester and Nashua policemen to the New Hampshire retirement system and making an appropriation therefor. (Provost of Dist. 18; McLaughlin of Dist. 13; Rep. Normand of Hillsborough Dist. 36—To Finance)

SB 335, relative to the establishment of a division of graphic services. (Provost of Dist. 18—To Executive Departments, Municipal and County Government)

SB 336, relative to home warranties. (Monier of Dist. 9; Sanborn of Dist. 17; Brown of Dist. 19; Provost of Dist. 18; Rep. Granger of Hillsborough Dist. 13—To Administrative Affairs)

SB 337, relative to family day care. (Rock of Dist. 12; Sanborn of Dist. 17; McLaughlin of Dist. 13; Rep. Johnson of Merrimack Dist. 15; Rep. Rounds of Grafton Dist. 12; Rep. Valliere of Merrimack Dist. 19; Rep. Townsend of Grafton Dist. 14; Rep. Thomson of Grafton Dist. 7; Rep. Wheeler of Hillsborough Dist. 11; Rep. McNichol of Merrimack Dist. 5; Rep. Hess of Merrimack Dist. 6; Rep. Shepard of Merrimack Dist. 4; Allen of Carroll Dist. 5; Rep. Carroll of Merrimack Dist. 19—To Public Institutions)

SB 338, relative to investigations of the state fire marshal. (McLaughlin of Dist. 13; Sanborn of Dist. 17—To Administrative Affairs)

SB 339, relative to the withdrawal of the Great Bay School and Training Center from the state retirement system. (Foley of Dist. 24—To Finance)

SB 340, relative to the state motto on motor vehicle number plates. (Rock of Dist. 12; Monier of Dist. 9—To Transportation)

SB 341, relative to child advocacy. (Preston of Dist. 23; Foley of Dist. 24—To Judiciary)

SB 342, to require that certain court orders mandating change in ownership of property be recorded. (Bradley of Dist. 5—To Judiciary)

SB 343, making an appropriation for the American and Canadian French cultural exchange commission. (Provost of Dist. 18—To Finance)

SB 344, providing for the appointment of pro tempore members of the personnel commission. (Healy of Dist. 16—To Administrative Affairs)

SB 345, making a supplemental appropriation to nurses registration board. (Smith of Dist. 3—To Finance)

SB 346, relative to liens on mobile home park owners. (Hancock of Dist. 15—To Judiciary)

SB 347, providing for additional staff and upgrading certain facilities at Laconia state school and training center and making an appropriation therefor. (Trowbridge of Dist. 11; McLaughlin of Dist. 13; Provost of Dist. 18; Rock of Dist. 12; Saggiotes of Dist. 8; Sanborn of Dist. 17; Smith of Dist. 3; Blaisdell of Dist. 10; Foley of Dist. 24—To Education and Finance (Joint))

SB 348, establishing a special fund derived from bar applicant fees for the use of the supreme court. (Bossie of Dist. 20; Smith of Dist. 3—To Judiciary)

SB 349, granting zoning powers to the Lower Bartlett water precinct village district and ratifying the annual meetings of the Lower Bartlett water precinct village district for 1976 and 1977. (Poulsen of Dist. 2—To Executive Departments, Municipal and County Government)

SB 350, authorizing games of chance at agricultural fairs and nonprofit fundraising activities. (Brown of Dist. 19—To Ways and Means)

SB 351, relative to instituting a residential flat rate schedule with a time of day optional rate for electric utilities. (Fennelly of Dist. 21; Rep. Smith of Hillsborough Dist. 14—To Energy and Consumer Affairs)

SB 352, relative to the power of Franconia college to grant degrees. (Poulsen of Dist. 2—To Education)

SB 353, permitting the expenditures of certain unanticipated revenues pursuant to the municipal budget law. (Keeney of Dist. 14—To Executive Departments, Municipal and County Government)

SB 354, relative to investment of funds of certain fiduciaries. (Preston of Dist. 23; Bossie of Dist. 20—To Banks)

SB 355, relative to the Hillsborough county register of probate. (Provost of Dist. 18—To Executive Departments, Municipal and County Government)

SB 356, relative to the scope of the hearings conducted by the appeals board of the health and welfare advisory commission. (Hancock of Dist. 15—To Administrative Affairs)

SB 357, relative to sovereign immunity of the state. (Monier of Dist. 9; Bergeron of Dist. 6; Sanborn of Dist. 17; Provost of

Dist. 18; McLaughlin of Dist. 13; Rock of Dist. 12—To Executive Departments, Municipal and County Government)

HOUSE MESSAGE

The House is ready to meet in Joint Convention for the purpose of being advised as to the state of the budget.

Recess.

Out of Recess

ENROLLED BILLS AMENDMENTS

SB 58, relative to the rule making powers of the weights and measures division of the department of agriculture. Senator Bergeron for the committee.

Enrolled Amendment to **SB 58**

Amend Section 1 of the bill by striking out lines 2 and 3 and inserting in place thereof the following:

Amend RSA 359-A:8 (supp) as inserted by 1969, 457:2 as amended by striking out said section and inserting in place thereof the following:

Amendment adopted.

COMMITTEE REPORTS

SB 173, establishing the New Hampshire municipal bond bank as a public body corporate and politic for the purpose of facilitating the borrowing of money by counties, cities, towns and districts and making an appropriation therefor. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this bill establishes a bond bank in New Hampshire by means of which the smaller towns will be able to get bonds at a better rate and with a lot less work, a lot less legal fees. It's been used in Maine and Vermont over a period of time. It is completely of help to the smaller communities, school boards or anyone else who has

to bond for money. The bill does have an appropriation of \$60,000 with it which money is ordinarily as the bill has worked in other states paid back within the first bond issue. Actually they generate enough money in one bond issue to back their own expenses. So that essentially we are talking no money except we do have to put out the money to stock a liquor store would be the same illustration. There was much testimony for it and none against it and I urge passage of the bill.

Sen. ROCK: I rise in support of the committee report on **SB 173**. I think what we also must consider is that the towns are going to benefit financially by the passage of this bill and its estimated that benefit will be somewhere of two to four percent in savings on their long-term borrowing capacity and that is by nature of the fact that they will be able to sell small issue at most favorable terms to the bond bank and the bank then consolidates them with other towns issues and gets the volume up and the rating balance for the best market. The towns are very much for this bill. Two of the best financial officers in the state Mr. Galan from Nashua and Mr. Ackris from Manchester are for the bill. The town treasurer from Merrimack has been through four town bond councils and spoke with great emotion over how he wished the municipal bond bank had been available to him. As Senator Poulsen has said, it doesn't cost the state anything. As a matter of fact the state may get relieved of some of the municipal bond guarantees such as sewage plants and the like since the bond bank can handle those. It does nothing to hurt the state bond rating and we certainly hope that you would see that this is very very excellent.

Sen. BRADLEY: Senator Rock this certainly sounds like a good idea and one that has been around for a long time and adopted in other states. The question I have is whether a locality of a school district would have to do something different, in other words, I have a school district that's going to be passing a bond issue will they have to vote it differently, have the articles different?

Sen. ROCK: No.

Referred to the committee on Finance under rule No. 24.

SB 245, relative to money deposited for the future use or

rental of a motion picture film. Inexpedient to legislate. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this bill has been in before the same act essentially they are in the last play. It is in the minds of the committee a business transaction and done in a particular manner that that business has apparently done business in there with an agreed party and he had a letter from another agreed party but those were the only testimony we had for the bill. As far as the committee was concerned we'd be meddling with normal business procedures so we voted it inexpedient to legislate.

Adopted.

Senator Keeney moved that **SB 241** and **300** be removed from today's calendar and placed on the calendar for Thursday, May 5.

Adopted.

SB 171, relative to dredge and fill control. Ought to pass with amendment. Senator Hancock for the committee.

No report due to technical difficulty in the machine.

Senator Hancock moved that **SB 171** be laid on the Table.

Adopted.

SB 221, requiring the office of state planning to estimate annually the resident population of cities and towns within the state. Ought to pass with amendment. Senator Monier for the committee.

Amendment to **SB 221**

Amend RSA 78-A:25, III and IV as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III. On or before April 30 of each year, the office of state planning shall notify the chief administrative officer in each

community of all the data components which will be used as the basis for the estimate of population. Municipalities believing that such data components are incorrect shall file their specific objections and evidence in support thereof with the office of state planning on or before May 30 of the same year. After due consideration of such evidence, the director of state planning shall determine the final components and resulting estimates.

IV. Municipalities dissatisfied with population estimates produced by the office of state planning may, at their own expense, have a special census conducted under contract with the United States bureau of the census. The results of such a census shall serve as a basis for subsequent estimates made by the office of state planning after said results are made available to the office of state planning.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Estimates Prior to Effective Date of this Act. Estimates as of June 30, 1977, compiled under RSA 78-A:25 as it then reads, shall be superseded by estimates as of July 1, 1977, prepared in accordance with RSA 78-A:25 as inserted by section 1 of this act.

3 Effective Date. This act shall take effect August 20, 1977.

Technical difficulty here resulted in loss of part of Senator Monier's talk.

Sen. MONIER: Mr. President what it actually does is establish a procedure and second it establishes means by which the towns and the state will have coordination with respect to the population estimates that are made by the office of comprehensive planning under the statute as required by law. The committee had the bill at great length and I don't think there was any disapproval to it. I urge its passage.

Amendment adopted. Ordered to third reading.

SB 129, (1 excluding certain persons from the definitions of "employment" in the unemployment compensation law. Inexpedient to legislate. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this is a world meaning bill. It has to do with the employees of summer camps primarily students and part time help and summer help. It doesn't do what I think the bill was intended to do. The Commissioner of Insurance was sure that it didn't do what it should do and the committee voted that it be inexpedient. The bill is a good bill in some ways.

Sen. HANCOCK: Senator Poulsen I'm not sure that the reasons were given for reporting this inexpedient except the insurance commissioner came in and was not in favor of it?

Sen. POULSEN: The insurance commissioner was not in favor of it. It gets into whether you pay unemployment compensation directly to the state on these people or directly to the government. I'm sorry, I said insurance commissioner, I meant the Commissioner of Employment Security.

Sen. HANCOCK: Did Mr. Adams object to it being paid to the state?

Sen. POULSEN: No.

Sen. HANCOCK: As I said, I'm not clear on your reasoning.

Senator Smith moved that **SB 129** be referred to Insurance for interim study.

Sen. SMITH: Mr. President when I sponsored this bill it seemed like a very simple bill and the more I've heard I gather that people are having problems with it. I think its really, the intent of this bill is not at the moment to get camps out of paying unemployment security but rather to present a case to the federal government so that unemployment security that people who are camp counselors may be exempted from that type of payment due to the fact that these counselors go for a certain period of time, they go back to school and do not go on the unemployment role. However, there do seem to be some problems and misunderstandings as to how the money would be paid. It was my understanding that if the bill passed, a camp would then have the choice of paying to the state or to the federal government. If they pay to the state they would pay a lower rate and it would therefore encourage them to pay to the state rather than the federal government but because of the complexities in the federal system would not sure whether this can be worked out but hope that the senate will vote to

recommit for interim study because I believe this bill has merit.

Sen. ROCK: I rise in support of the present motion by the senator from the third district. I heard the testimony on **SB 129** and I felt that the time of the testimony to favorably inclined. Unfortunately, I could not be present when the executive session was held on it but I do feel that there are areas here that are deserving of the kind of consideration that Senator Smith had in his original presentation. I also hope if we send it to interim study that it really will get a look so we can see if there is a way in which we can offer some assistance to these people. I have difficulty in understanding why when a counselor is hired for an eight week period knowing he is going back to school we pay employment security which is insurance for unemployment at the end of the eight weeks anyway.

Sen. BROWN: I too rise in support of the motion. I co-sponsored this with Senator Smith who approached the commissioner of the Department of Employment Security he informed me they had no objection to it. They explained that these people would get a lower rate by staying in the position which they were in on the state level. It was excluded that they be paying the difference to the federal government. I explained that to the people involved along with Senator Smith they still chose to take this course. Apparently, as I heard from the debate on the floor that there have been some complications, therefore, I'd like to see it go to study.

Adopted.

SB 152, relative to products liability actions. Majority—Referred to Interim Study (Sens. Preston, Poulsen for the majority)—Ought to pass. Senator Rock for the minority.

Sen. LAMONTAGNE: Mr. President members of the Senate, I personally feel that this bill is a very important piece of legislation especially for small business men. Right now small businesses are facing a problem, for instance like if someone wants to put in a claim for a defective product that the person can get sued and really create a lot of hardships and put the small businessman out of business so that's why I feel this bill is very important for the small business and ought to be

passed instead of sent to interim study.

Sen. PRESTON: **SB 152** is perhaps one of the most complex bills to come before someone like myself as a layman. There were plenty of attorneys, representatives from the insurance industry and manufacturers within the state. We listened about 3 1/2 or 4 hours of testimony. On the face of it it sounded like a good bill but I must admit that significant questions were presented at that time that bothered some of the members of the committee. I had many calls on this and I must say some misinformation has been spread around. I would just like to read if I may a paragraph from some of the testimony that was presented that pretty much summed up my concerns that this bill would disenfranchise some New Hampshire citizens from rights they have in other states. We were told that model legislation like this is being presented to other state legislatures and I understand that perhaps one or two states have enacted the same already; but even if the New Hampshire citizen were to be totally deprived of all rights to bring action for product liability that would not reduce by one fraction of one cent the insurance premium paid for products liability by New Hampshire manufacturers. Nor make coverage available where it does not otherwise exist. Some of the testimony would lead you to believe that would be so because of all the claims that some insurance for products liability was neither affordable nor available and that does not appear to be true. At said time and date in the future when the bulk of high risk rates where the problem occurs more generally, California, Michigan, New York, Massachusetts when they passed this legislation then it might be appropriate to ask our citizens to also give up some of their rights in order to come into conformity with the rest of the nation. I would suggest that perhaps this could be done on a federal level so that all citizens might be placed in the same category of relinquishing their rights the same time as this bill the statutes of limitations would be three years after the product related injury occurred and it also establishes an outside limit of eight years which would not be in conformity with the citizens of the other states in the country. At the present time legislation of this sort constitutes a complete give away fo the rights of New Hampshire citizens without the hope or expectation of returning any benefits to any portion of our society in the state. From the testimony that was given some of the

bigger states and that 96% of the suits by New Hampshire citizens were against out of state manufacturers. So this may be a small state for big industry, to initiate model legislation I say to the members of the senate that the problem really doesn't apply here. Let's initiate it where the problem is the greatest in the big states where they are more suit conscious and let us not implement first this action against our citizens.

Sen. BERGERON: I believe you read from some testimony a statement in your original remarks about not reduced rates nor make it available, Senator whose statement was that?

Sen. PRESTON: It was a statement by Attorney Dortenbig of Manchester who claimed to have represented many citizens in liability suits.

Sen. BERGERON: Senator, I'm glad that you happened to pick that one up because I think I'd like to ask you a question, do you call this and I'm going to read the first three lines of Mr. Dortenbig's testimony, "I have a law office in Manchester. I am a practicing attorney specializing in trial the trial of product liability cases, although I am not a paid representative with any special group I candidly admit my personal interest in this legislation." Didn't that kind of lay the groundstones for his testimony?

Sen. PRESTON: That's perfectly correct. He did indicate that he did represent some consumers in liability suits.

Sen. BERGERON: Senator I also believe that you made reference in your words exactly were outside limit of 8 years?

Sen. PRESTON: I was reading from analysis of the bill.

Sen. BERGERON: Would you believe Senator, that the outside limit is not 8 years but it is 11 years or could be 11 years?

Sen. PRESTON: Well, if you listen to what I said as I read it in quoting from the analysis of the bill it said three years after the product injury with an outside limit of 8 years of manufacture parts with the product. Which means 8 plus 3 being 11.

Sen. BERGERON: Senator, I'll ask my question again. Does that bill not establish an eight year statute of limitations and from that period another three years to bring suit giving it a total of 11 years?

Sen. PRESTON: That is correct. Eight and three is 11.

Sen. BERGERON: Senator are you aware of what federal legislation sometimes does to the people in various states and

are you aware that there is federal legislation that is being proposed that's going to make this bill look like peanuts?

Sen. PRESTON: Senator, I am not aware but I am not prepared at this time to experiment with the New Hampshire consumer something that hasn't been tested in other states where a larger problem occurs. I don't think it's a significant problem in this state.

Sen. BERGERON: Senator do you see this particular area affecting each and every businessman in the State of New Hampshire from the cafeteria downstairs to the automobile salesman to anyone that is handling anything?

Sen. PRESTON: Senator I'm aware that there is a need of obtaining this insurance in some cases but I am not aware of the effect its going to have. Not saving them any money or making it more available if that's what the question is intended to bring out.

Sen. BERGERON: Senator in testimony given that night are you aware of a man by the name of Geroze Freeze who is President of Globe manufacturing Co. in Pittsfield New Hampshire that employs some approximately 150 people local people who made the statement that suddenly and without prior warning the cost of his coverage jumped two thousand dollars annually for two million dollars worth of coverage to forty-eight thousand dollars an 2300% increase?

Sen. PRESTON: I am very much aware of that senator and I'm not ready to lie that blame on the doorstep of the New Hampshire citizens.

Sen. POULSEN: Senator Preston in the testimony the committee heard was there any indication that the rates of this insurance would be reduced if this bill were passed?

Sen. PRESTON: None whatsoever.

Sen. POULSEN: Was there any testimony that the insurance would be more available to the manufacturers of New Hampshire?

Sen. PRESTON: There was none.

Sen. BOSSIE: Senator Bergeron is it not true on the evening of the hearing of this that we had a special night hearing at the request of some members and that further we heard from a number of insurance men and big business men who favored this proposal?

Sen. BERGERON: Senator, to the best of my recollection the night we had this hearing we had approximately 50 people, the room was packed. We heard from all the people in the room, the insurance commissioner, heard from sponsors of the bill and we heard from people that this bill directly involves the New Hampshire consumer. Nowhere in testimony as far as I am concerned, that I recall, was there a representative representing an insurance company to the extent, we did have a lobbyist there; but we had no people representing a particular insurance company.

Sen. BOSSIE: We had somebody representing the insurance i-n-d-u-s-t-r-y! Right?

Sen. BERGERON: Yes, there was a man there by the name of George Saddler there was a man there by the name of Tony Julliano.

Sen. BOSSIE: Senator you seem to imply that because Mr. Big who happens to be an attorney and a good one, is there to represent the people and himself as a consumer that there is something wrong with that and that there is nothing wrong with fat insurance companies and fat businessmen coming before us because they were all gathered together by their association. There is nothing wrong with any of them coming is there?

Sen. BERGERON: Senator, I didn't say anything. I read three lines from Mr. Big's statement. He said it, I didn't. If you've got a problem see him.

Sen. LAMONTAGNE: Senator are you for this bill or against this bill?

Sen. BOSSIE: Needless to say, I'm against it and I'll tell you Senator and I heard your speech earlier and if I may add a little more that certainly I am concerned with small businessmen in New Hampshire. I'm concerned with the large businessman because I represent a lot of companies that are in my area. The fact remains that even known people have to pay product liability insurance if they are in the manufacturing business. Now why deprive individuals of their rights. I just can't understand if you have a child who is injured by an instrument that was made defectively, why should you have to pay all the hospital bills which could mean hundreds of thousands of dollars. So thats my only answer. Be fair to everybody not necessarily against the consumer.

Sen. TROWBRIDGE: I just like to say a couple of things to get them off my mind. Having also practiced law for a certain

amount of time, when this bill came along I was terribly interested because my first reaction was hey, tort law takes care of all this. If you have a machine and someone has altered it and then gets hurt because its been altered that's a perfect defense of a suit. Any New Hampshire company can bring up a defense to the suit someone's altered it. Thats part of this bill. You certainly have the right to defense to say I've made it in 1901 and by then product liability should have run out a second defense available. So the only thing this comes down to so far as I can see is the product liability insurance. How much you have to pay for product liability insurance. You don't need, as Senator Bossie says, to throw out the rights of New Hampshire citizens in order to take care of product liability. Then you take the other question how much of a manufacturer in New Hampshire? We have .3% of the population. Of all the people I know, Sanders Associates do most of their business outside the State of New Hampshire. They are still going to have to buy the same amount of product liability insurance because they can't be sure if that machine is going to be harmful to someone in New Hampshire or in Illinois. They can't be sure so they take out the same policy either way as far as I can see if they want to insure themselves. So here we have a situation where we cut off the New Hampshire citizen from suing from Mississippi and most of our stuff comes from outside of the state and the New Hampshire manufacturer whose the one we are trying to protect he's still got to buy product liability to take care of all the stuff he shipped out of state and which isn't. He's got to cover them all. So really what do we do with this bill. If it were effective, if it were to help the small manufacturer in the state I'd be for it. But I really don't think we are covering anything but the single situation where you're going to manufacture something in New Hampshire and sell only to a New Hampshire citizen and we cut the New Hampshire citizen off from suing the New Hampshire company. Thats all we are talking about and that may be about 1 to 2% of the transactions in this state. So what's really going to make sense here as Senator Preston alluded to it, you've got to get these other states to go along too or we are just throwing in the hat.

Sen. ROCK: I begin by apologizing to Senator Poulsen and Senator Preston, I had no intention of short-stopping whatever they intended to say. I merely indicated to the chair I wanted to speak, I was recognized, thats why I got up but I do

think there are some very important things that must be clarified now that have not been said in this debate. I'm a little pained when I hear the phrase fat businessmen and big business thrown out as they have been very recently. I think there are two issues we have to take when we consider the insurance itself. The first is its availability and it is becoming less and less available and that is a problem. Companies that were offering it are not now offering it that's the availability and the second has been referred to in the debate also and that's the affordability. I wish the entire transcript of the hearing had been ready for this debate today so I could quote to you verbatim some of the horror stories. I use the word horror stories because that is exactly what they are that have been happening to our New Hampshire businesses. I always looked at our New Hampshire businesses be they big and we do have some fortune 500 companies in the state and I guess we are mighty fortunate to have that, have a lot of small ones too and frankly this affects them all, large and small because there could be a fine company over in Keene makes toy stuffed animals that's going to be dumping a large amount of profit it makes into liability insurance although they have one of the finest records making soft cuddly toys of anybody, they've got to if they want to sell that product to Filenes or Jordan Marsh. Not only have product liability but extensive and exorbitant limited liability. Suppose some youngster does bite off the ear or somehow tears the animal, they are protected by insurance. And I'm all for protecting the consumer with insurance. As Senator Trowbridge said you have court law to take care of these things. Well, you may well have but I can give you an example of a company in Nashua that makes injection molding machines for plastic manufacturers. It manufactures the machine. Some of them are used right here in New Hampshire by New Hampshire companies. One of them happened to be sold 25 years ago to a company that's been sold several times since they can't ever find where the machine is. It was completely altered and changed in every way possible and yet they are being sued and the cost for defending the case are already over \$35,000 and as you know Senator and I know it may well be that the laws there in tort to defend but you still have to fight the case and to fight the case it oftentimes cost more for the lawyers than it does for the settlement. I think I hear loud and clear what you're saying that we are not going to change the world tomorrow with

passage of **SB 152**. It may well be that this model legislation would be a piece for other states to follow. I hope so. But Senator Bossie it does not take away the right of the consumer to sue. It establishes some parameters statutes of limitations which I think are all reasonable. For instance, if a manufacturer sells a chainsaw made in New Hampshire and he parts with the product in 1977 and seven years and three hundred and sixty days later that machine untampered with and unaltered or unchanged from the manufacturers original presentation cuts somebody's finger off they have three years from the day the finger is cut off to bring the action against the manufacturer and that in many cases is a much more favorable statute of limitation than you have in other laws which are five, three and seven years. So when someone says we are disenfranchising our New Hampshire citizens or taking away their right to suit, this bill does not say that. The right to sue is there. The person who sues has to sue on a product that has been basically the product they bought and not put a mongrel chain on the chainsaw or change the speed of the motor, it also says within some limitations you've got to realize that the state of the part may change and this bill clearly sets out what the state of the part is as a defense. However, chainsaws manufactured in 1977 compared to 1999 and it also presumes that the manufacturers made other legal duties relative to the product. I think that if anything what we must consider is the fact that while business is subject to criticism for having an interest in this statute **SB 152** its because that business is employing New Hampshire people. We heard stories of businesses that have closed and will be closing because the cost of product liability or more importantly the availability of it are just disappearing. I agree with Senator Poulsen that we did not have concrete evidence that says if you pass the bill the insurance is going to be cheaper tomorrow. You are correct Senator nobody said that nor did we say if you pass the bill today it would be more available tomorrow but let me assure you that if you don't pass the bill it will be more expensive and it will be less available and that will mean less jobs and it will mean people out of work because companies cannot continue to pass the ever increasing and escalating costs of insurance for product liability that this bill will help stabilize in New Hampshire. I hope you support the majority report of Ought to pass on **SB 152**.

Sen. TROWBRIDGE: Senator Rock the on salient point

that I want to get from you is you gave the example of someone who sells to Filenes presumably purchased by a Massachusetts resident, what in this bill protects the New Hampshire manufacturer from being sued by Massachusetts citizens?

Sen. ROCK: I think the answer to that one Senator is what's this bill that helps manufacturers is if you pass it to be able to afford and find the insurance to protect himself from the suit from the Massachusetts person. It's just as important to be able to buy it to be protected from other states that sue him as it is to be able to have New Hampshire people.

Sen. TROWBRIDGE: You admit then that he still has to buy product liability insurance?

Sen. ROCK: Absolutely.

Sen. TROWBRIDGE: And I take it there is no evidence that there will be any more product liability insurance if he's selling out of state if he's a person who sells his products out of state there will be no more available than before because the same risk is there is it not?

Sen. ROCK: I'd like to answer your question directly but I'm going to go around a little bit and answer it indirectly and then maybe I can give you the answer you want. If he's going to sell to Filenes the toy manufacturer in Keene is going to sell to Filenes they won't buy his product without liability insurance. The insurance company that insures him and many companies have had to go to Lloyds of London to get it because the American companies are just not offering it anymore. If he can't buy the insurance somewhere from somebody then Filenes is not going to buy his product. He still has to have insurance to widen his scope of sales I would imagine the lower expense his insurance will be; but if there is to the minds of the insurance company no ends to what the suits might be 30 years from now then we are going to see continually escalating cost of the insurance when it becomes absolutely unaffordable he can't buy it now he can't sell his product.

Sen. TROWBRIDGE: Since New Hampshire represents .3% of the gross national product there are very few companies in New Hampshire who exist selling only to New Hampshire citizens therefore the only thing you would do in this bill is to lower the product liability insurance by .3% because New Hampshire people can no longer sue?

Sen. ROCK: No. That's absolutely incorrect. The premise

that you put forth is not incorrect, it is totally incomplete. To give you the best example I can Senator let me reserrect the name whom I know is very familiar to you and that was the name of Larry Picket. You know Larry Picket fought long and hard in these halls to bring New Hampshire to be the first state to have a state lottery. We led the way and other states have followed and other states now have lotteries patterned after ours. I firmly believe that other states will adopt this legislation and it will help industry in general. It won't take away anybodys right to sue for injury within the statute of limitations set forth in this bill in New Hampshire and I think we will be doing a service not only to New Hampshire businesses and employers but we will show other states that this can be done.

Sen. TROWBRIDGE: All it does is prevent them from being sued by New Hampshire suits?

Sen. ROCK: Senator I wish you wouldn't say it prevents them from being sued. It doesn't prevent anybody from being sued.

Sen. TROWBRIDGE: But it prevents the New Hampshire citizen from having the same tort as he would have in Massachusetts.

Sen. PRESTON: Senator Rock if this law were passed would it give the Massachusetts citizen the right to sue to greater degrees than the New Hampshire citizen?

Sen. ROCK: I don't think I understand your question.

Sen. PRESTON: Would the statute of limitations be any different in Massachusetts than the New Hampshire citizens if this law were passed?

Sen. ROCK: Would depend on where the suit was brought.

Sen. PRESTON: Would it if it were brought in Massachusetts?

Sen. ROCK: No.

Sen. ROCK: Senator was any information presented to our committee that night that would substantiate that the insurance companies the providers of this insurance were losing money for carrying these lines?

Sen. ROCK: No. The only thing that I could answer along that line Senator would be and I'm sure you heard it that fewer and fewer companies are making this insurance available at a higher and higher cost and I have to believe that in the market place where all this happens if the insurance was a lucrative and very profitable form of insurance there would be competi-

tion to secure customers to buy it and it seems just the opposite the insurance companies are not only not looking for customers they are dumping long-time customers and telling others in a sense that we really don't want your business unless or until you're willing to pay a price that is out of the question.

Sen. BOSSIE: Senator Rock its very interesting to hear your reference to the state of art defenses and this is something that a nonlawyer would not know and even most lawyers would know very little about it. Does this bill give us any rights, give our people any rights other than what are provided for by law now?

Sen. ROCK: As I understand the bill Senator it establishes the state of the art defense that affords the defendent the opportunity to convince the tryer of the fact that the design of the product was in accord with known techniques and methods available at the time of manufacturing and consequently the manufacturer should not be liable for injury to the user of the product.

Sen. BOSSIE: Senator would you believe that the law in New Hampshire now is that there is a state of the art defense that when an action is brought of product deficiency that you can claim well gee at that time when the machine was manufactured 10 years ago this technology wasn't available and what we will be doing is to say to these manufacturers fellows there is no need to have any technology and improvement because you're going to be safe. You won't need to know anything else because you got this defense now.

Sen. ROCK: Thats not the way I understand it senator.

Sen. BERGERON: Is your recollection of testimony of Commissioner Whaland and I'd like to read something to you from his testimony and I quote from it "the market was drying up as far as product liability was concerned and we had to act. There obviously is a problem. All I know is that the insurance companies in New Hampshire were unable to provide product liability for many people. If we do not provide product liability insurance many, many of our businesses in New Hampshire are going to have to go out of business." Further he goes on to state "All I can say is that rates will probably not go up as much and the market will open up." Is that your recollection Senator?

Sen. ROCK: Thats my recollection I tried to answer that in the question.

Sen. BOSSIE: Senator I noticed your comments and questions to Senator Rock about the availability, I noticed that you didn't say that these manufacturers said o.k. if you don't do something and pass a law for us we will move out of state. They didn't say that either because this would be the first state if we were to adopt such a restrictive law depriving people of rights. Isn't that true?

Sen. BERGERON: Not true. Other states have adopted it. Utah has and the legislation has been filed in many other states.

Sen. BLAISDELL: Is it true that the insurance commission is about to mandate a joint underwriting association for product liability insurance because such insurance is not available. Do you know that to be true?

Sen. BERGERON: Well, yes they are working on it senator. They have set up a voluntary type of arrangement hopefully to take care of the situation. Its not working, they've had some companies withdraw and its a patch-quilt approach to the problem. According to Commissioner Whaland it is not working therefore they are going to have to get into this type of situation.

Sen. BLAISDELL: Under present law is a company liable for any product they have made regardless how old it is?

Sen. BERGERON: Right now under the existing law that we have, a manufacturer for example could have built a machine in 1902 been modified 35 times and he is still on the hook for it.

Sen. BLAISDELL: Would you say that would be a pretty hard thing to rate?

Sen. BERGERON: You better believe it is and this is the problem.

Sen. BLAISDELL: Would you say that unaffordability is assumed least unavailability?

Sen. BERGERON: Absolutely.

Sen. BOSSIE: Senator wasn't there also testimony at the hearing the other night that according to a Marie Cryowski in the April 4th issue of Business Insurance which is a magazine she stated that insurance companies have been withdrawing a product liability lines from the market without having to show any statistics which prove that they were losing money from that line. Further in the same article she points out, although

the insurance industry is broke on statistics it has never been made to break out its product liability separately."

Sen. BERGERON: That article was attached to Mr. Biggs statement. I don't believe it came up at the hearing but it was attached to his analysis of the bill.

Sen. ROCK: Senator do you believe sincerely that in the market place today that if product liability were a big money maker for big fat insurance companies that they would be withdrawing from it?

Sen. BOSSIE: Let me say this about that. I think the insurance companies are scared of this just as they are of medical malpractice. I just received my legal malpractice insurance premium which went up 150% over what I paid last year and the 11 years I've been a lawyer I've never had one claim against me. Not one and so my insurance company to boot cancelled my insurance because they are getting out of the business. They are going into other lucrative deals. I thought it was a little strange and I checked out with them and they are "scared" about it. Senator what is going to happen if you pass this the people are still going to have products liability insurance you'd just be depriving New Hampshire people of their rights without compensating them in anyway. You give something by taking something away. In this bill you're just taking it away.

Sen. ROCK: Do you recollect from the night of the hearing Senator at which I believe only three lawyers opposed the bill, do you recollect hearing the toy manufacturer from Keene saying he had never had a claim against him also and yet if he didn't have this insurance he couldn't sell his product and he was finding the insurance impossible to get?

Sen. BOSSIE: The fact remains that if we pass this his rates are still going to be the same and no testimony at that hearing or before us today has indicated otherwise. How far do we have to go with this?

Sen. BRADLEY: Mr. President I rise in support of the majority report. I am not unsympathetic to the problem that manufacturers have and I wish there were something we could do to alleviate the products liability insurance problem. I don't see this bill doing any good at all. In fact I'm interested in Senator Rock's feeling of hope that maybe this would be a model for other states. I suggest to you there is going to be some legislation to try to somehow to tip the balance more in favor of the manufacturers and to somehow prove the insur-

ance problem. This is not a model bill to do it. This is not in my opinion a very well drafted bill. I hate to take pot shots at a good friend and a very able attorney Marty Gross who was the primary draftsman of this; but it has a lot of problems in it. Just let me give you a couple of kinds of things that are in it. I have done some products liability work myself. I had a run once on aluminum ladders where people had bought aluminum ladders and they had collapsed under them and they had been hurt and it got very interesting when you talked to the ladder manufacturer cause they all had the same line. Now this gets to the business about the state of the art defense. Now Senator Bossie said under existing principles a certain kind of state of the art defense which is well reasoned and well worked out. The state of art defense in here however, is kind of a little different thing. If you look in the middle of page 6 "when there are 2 or more possible product designs, the adoption of a design is substantial use in the defendant's trade or business or in allied or similar trades or businesses shall be deemed as being in compliance with the state of the art." All right, I'll tell you about aluminum ladders. Every aluminum ladder of particular length is designed by the same standards and specifications so the industry is all the same and under this there would be no way that all ladder manufacturers would have a perfect defense. I'll tell you this, you take one of those ladders that we had a case with and this was an extension ladder about 30 feet fully extended and its standards and specifications were that it could hold 1,000 lbs. and that was the standard of the trade and industry and that sounds pretty good but this was demonstrated in the Thayer School of Engineering Laboratories, you take that same ladder and you put it in under circumstances that would be typical in use when a person is walking up and down it to shift the weight from one side to the other and your weight is moving on it so that you can get all your weight on one frame and be moving around the ladder will collapse with 200 lbs. on it. Demonstrated by putting 200 lb. weight on it and crunch, down comes the ladder. That ladder would be in 100% use but it was a lousy ladder and you could demonstrate it. That's just one of the kinds of things. Another thing about this bill if you had one of these cases you actually have a right to sue, you're not cutting that off; but I defy anybody in this room lawyer or not to try to understand to read the section of this bill on page four and you have a case that involves a duty to warn or instruct can you

imagine trying to read that to a jury of non-lawyers so that they would understand that. I read that time and time again and I'm darned if I can really understand. There is a law on the books now which concerns the duty to warn and duty to instruct and I think its a pretty good law. Its a reasonable kind of standard in which I think juries have some kind of understanding to instruct and explain to them but I can't believe any jury is going to understand what the law is governing if we put this thing into effect. If we are only talking about the statute of limitations which is what most of us talked about so far. This bill wouldn't bother me that much. I don't mind. We have a long statute of limitations in the state compared to some other states and I wouldn't mind putting this on. But the rest of this thing has a lot of problems with it and that is why I think the logical thing for this bill is to go to study committee. Lets see if we can work them out.

Sen. FOLEY: Mr. Chairman I don't know business. I'm not an insurance man and I'm not a lawyer. I'm a New Hampshire consumer and I think this bill infringes upon my rights and I certainly hope that this body moves that it go to study committee and so votes.

Motion to refer to interim study.

Senator Bossie moved the previous question.

Adopted.

Senator Blaisdell requested a roll call. Seconded by Senator Lamontagne.

The following senators voted yea: Poulsen, Gardner, Bradley, Trowbridge, Hancock, Healy, Bossie, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Lamontagne, Smith, Bergeron, Saggiotes, Blaisdell, Rock, McLaughlin, Keeney, Brown.

11 yeas 9 nays

Adopted.

Senator Bossie moved reconsideration of the action by which **SB 152** was sent to interim study.

Motion failed.

HB 668, authorizing the university system of New Hampshire to acquire fire, theft and casualty insurance. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: HB 668 seeks authorization for the university to insure donated property both real and personal. Some members of the university had donated their houses or real estate to which they retained life estate in these and the university by statute could not insure them properly. The same would apply to those works of art in the art center where by statute the university cannot now protect them by carrying the proper insurance and thats the main thrust of this bill.

Adopted. Ordered to third reading.

SB 242, relative to partnerships, associations and corporations holding an insurance agent's license. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President this is simply a house-keeping measure to move an acrism. It refers to a New Hampshire corporation that can't be owned by out of state shareholders so they have to use a straw New Hampshire. It just removes one of these old witches in the closet.

Adopted. Ordered to third reading.

SB 264, permitting political subdivisions which choose coverage under the unemployment compensation law (RSA 282) to either elect the reimbursement or contribution method of payment. Inexpedient to legislate. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this bill was put in for a school district which hoped to budget money enough for their employees who come under workmens comp which they do not. It also gave them the choice of either using the state system where they pay for the amount that is actually paid to the employees or the contribution method which is now commonly used. Actually it has no function at this point and the commissioner of employment security was completely opposed, not opposed to it he just said it was useless so the committee is voting it inexpedient to legislate.

Adopted.

Senator Smith moved that **SB 158** be taken from the table.

Sen. SMITH: Mr. President **SB 158** is relative to closing state liquor stores on Christmas eve and New Years eve only. I rise in support of the present motion relative to that bill. I think is a bill very simple and meaningful and one which is only fair and just that on Christmas Eve particularly State employees who are working in the liquor store be able to go home like the rest of humanity.

Sen. DOWNING: I rise in support of the pending motion and say the testimony before the Ways and Means committee on this particular bill was that the relative income was negligible and it was a very significant thing with the employees working in those stores morale wise or otherwise. I urge your support in the committee report.

Sen. MONIER: Senator you say that the revenue in fact was minimum would you tell me if anyone from the commission testified to that?

Sen. DOWNING: No they didn't Senator. I don't believe the commissioner was present at all at the hearing. They had no interest at all in it.

Sen. MONIER: May I ask then what particular people indicated the revenue was minimal?

Sen. DOWNING: The sponsor and a representative for the employees and I believe he worked in the Nashua store. I might also add Senator that this same individual was very concerned that we didn't eliminate some of the other holiday Eve openings as they were substantial revenue making. I don't think he reported before the committee without being cognizant of the significance of the revenue. He alluded to another bill that the Senate had possession of which would have closed up the stores on Thanksgiving Eve and a couple of other days like that. He made it quite plain that he's not supporting that as it would be a substantial loss of revenue and the employees were already conditioned to working those particular days. But they are very very concerned about Christmas Eve and New Years Eve.

Sen. MONIER: I thank you for giving me some additional information.

Would you say that this person was then speaking for the liquor commission and has access to what revenues are and

soforth in all the various different stores around the state?

Sen. DOWNING: I think he probably has access to revenue information but I didn't feel for a moment that he was speaking for the commission Senator.

Sen. MONIER: Would you feel that he was speaking for the employees then who were concerned about whether they would be working that night or not?

Sen. DOWNING: Yes. I think he definitely represented an employees point of view and concern for working those particular days.

Sen. MONIER: Then in truth this bill is being supported on the basis of the employees who do not wish to work those nights?

Sen. DOWNING: I would say that it is definitely being supported by those employees yes, and legislators that are concerned with the principle of the thing.

Sen. BLAISDELL: Mr. President members of the Senate I rise in support of the committee report. I own a store myself. I'm sure if I stayed open after 5:30 on Christmas Eve and New Years Eve I'd take in a lot of money in my store but I don't believe we should even be considering the revenue of what I take in in my store. I think this is the family man or woman that works in these stores who belongs with their family Christmas Eve and New Years Eve thats why I'm supporting this. It's the right thing to do. I say this, that the day that I have to open my store in the evening before Christmas or open my store on Sunday is the day that I'll close it.

Sen. SAGGIOTES: Mr. President I was going to say the same thing Senator Blaisdell said. I think its just a question of whether we want the liquor store employees to work on Christmas and New Years Eve or we don't want to. I think that's what it boils down to and I support the committee recommendation and we should give the liquor store employees the opportunity to spend some time with their families on these two occasions.

Senator Rock requested a roll call. Seconded by Senator Downing.

The following senators voted yea: Smith, Gardner, Bradley, Saggiotes, Blaisdell, Trowbridge, Keeney, Hancock, Provost, Brown, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Monier, Rock, McLaughlin, Healy.

14 yeas 4 nays

Adopted.

SB 158, relative to closing of state liquor stores on Christmas eve and New Year's eve.

Motion of "ought to pass."

Adopted. Ordered to third reading.

SB 230, establishing the minimum standards of habitation for leased residential premises. Split report—Ought to pass; inexpedient to legislate. Senator Bradley and Foley for "ought to pass". Senator Keeney and Bossie for "inexpedient to legislate."

Motion of ought to pass.

Sen. BRADLEY: Mr. President this is a bill introduced by Jacobson, Bradley and Foley. This bill would establish certain standards of premises that a landlord must adhere to listed in the bill would only seem to be those minimum kind of standards of premises that a landlord must adhere to. Listed in the bill are those minimum kind of standards pertaining to what any decent apartment or house ought to have. You can read them on page one and two of the bill a-1. repairs are less than \$200 a month there is a procedure by which the tenant can have the work done himself and get credit against his rent. There is another procedure which can be instituted by the tenant in order to get the repairs made, if not made the tenant taken care of. There is also a provision in the bill which prevents the landlord from entering into a reprisal against the tenant for exercising this under the law. There is also a provision that prevents this law from being waived by standard landlord leases by provision in a standard landlord lease.

Sen KEENEY: I rise against the motion ought to pass for several reasons. This did happen to be a bill which was heard this week with only one member speaking in favor of it other than the two sponsors that being the attorney for New Hamp-

shire Legal Assistance. Second to that fact, many others have not had the opportunity to either know of the bill or to appear to express their feelings about the bill. I feel that the subject matter is one which is taken up in local communities. Some cities already having housing codes others such as Nashua are now revamping theirs.

Sen. BOSSIE: Mr. President I rise in opposition to the motion that it ought to pass. I concur, for once, with Senator Keeney. Basically, Senator Keeney and I for some reason haven't been agreeing on bills out of the judiciary this year. What this bill is going to do is create more bureaucracy for our towns and cities to administer. As we know, the supreme court has already ruled on a warranty of inhabitability for leased premises. I think the case as cited by the supreme court is a good one and is as clear as ought to be. I think the New Hampshire Legal Assistance would like to have their law in black and white so they can give these laws to the people when they come in. Now this is fine except for the fact the types of people that might own one or two apartments and would lease would be unaware of the law. Frankly, in the city of Manchester for one we have a very astringent building code. One in which would make this bill look paltry. At the same time the individuals who are slum lords know it and are always after them to repair it and that indeed is the way it should be. I think this is just adding something else, I don't mind much of the context I just mind the bureaucracy whose going to administer these things. I think that's the bad part of most of these bills. There is nothing wrong with the bill but for the fact in trying to enforce them and it's just not fair to impose these additions on towns and cities that are unable to either meet the obligations of supervising it to this extent.

Senator Rock moved to refer **SB 230** to interim study.

Sen. ROCK: In making this motion Mr. President I have to comment on something I heard in this chamber today that not only shocked me but I think was most unfortunate statement. I served on many study committees that have brought back legislation that has been much improved from what originally had been presented before us and I'm sure all the senators have also. The remark to say that we are going to send the bill to interim study so it will be permanently killed is an unfortunate slip of the tongue; but in any event I think there are parts of

this bill that do deserve further study. I'm not happy with it the way it is and I would hope that we could because of the lateness of the day in which we are now move on to other legislation and see if this couldn't be improved. Because it is a split report. There was a diffusion amongst the committee and I think we should take another look at this but at a time when we are not under the pressure we are now.

Sen. BRADLEY: Well I guess I would rise in opposition. If this were the first time we had seen this bill I might think Senator Rock's remarks were well taken; but the bill has really been studied from the point where I don't think in this bill or something close to it has been around since I first served in the House and I think its been refined and modified and something added and something subtracted and this seems to boil down to the consensus of this of what it ought to be as well as I think we can get a consensus. I guess what I'm saying is I don't think that its really likely that our committee is going to improve the bill as Senator Rock suggests. I think the bill is o.k. at the present time. If there were some small technical problems those are the kinds of things we ought to take care of in the House and not by interim study.

Sen. KEENEY: I rise to support the motion by Senator Rock to send it to interim study. As a matter of fact it was the first motion I made as a committee member and therefore as a committee member I would try to improve the bill. I think that we can afford the time on it along with some of the other bills of similar nature that have come through the House.

Senator Bradley requested a roll call. Seconded by Senator Downing.

The following senators voted yea: Poulsen, Gardner, Bergeron, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Keeney, Healy, Provost, Brown, Bossie, Downing, Preston.

The following senators voted nay: Smith, Bradley, Hancock, Fennelly, Foley.

15 yeas 5 nays

Adopted.

VACATE

Senator Brown moved that **SB 336** be vacated from Administrative Affairs to the committee on Executive Departments, Municipal and County Governments.

Sen. BROWN: The reason being is, two bills very similar. There is one already in EDA and this one is very similar to it. With the permission of all and the approval of all the sponsors except for the reps, I would like to have them together to make one good bill out of the two.

Adopted.

Senator Poulsen moved that **SB 163** be taken from the table.
Adopted.

SB 163, relative to the fee for the renewal of land surveyor's certificates of registration.

Senator Poulsen moved that **SB 163** be put on second reading at the present time.
Adopted.

Senator Poulsen moved an amendment to **SB 163**.

Amendment to **SB 163**

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Land Surveyor's Fees. Amend RSA 319-A:17 (supp) as inserted by 1969, 458:1 by striking out said section and inserting in place thereof the following:

319-A:17 Applications and Registration Fees. Applications for registration shall be in forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detailed summary of his technical work, and shall contain not less than 5 references, of whom 3 shall be land surveyors having personal knowledge of his land surveying experience. The registration fee for land surveyors shall be no less than \$30 and no more than \$50, as may from time to time be prescribed by the board. One half of

the prescribed fee shall accompany the application and the remaining half shall be paid prior to issuance of a certificate. Should the board deny the issuance of a certificate of registration to an applicant, the initial fee deposited shall be retained as an application fee. Applications for registration as a land surveyor-in-training shall be made on forms prescribed and furnished by the board and shall be accompanied by an application fee of no more than \$25, as prescribed by the board, to cover the cost of the examination.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. POULSEN: Mr. President I move an amendment which is in the possession of the Clerk. The amendment gives the board of licensing of land surveyors the right to increase the charge made for the examination of surveyors. The original bill increased the annual registration fee which has gone up in price.

Division vote: 16 senators voted yea. 1 senator voted nay.
Amendment adopted. Ordered to third reading.

SB 220, requiring a mandatory jail sentence for any felony in which a deadly weapon is used. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: **SB 220** would require a minimum imprisonment of two years for anyone who commits a felony using a deadly weapon, threatening to use a deadly weapon or simply being armed with a deadly weapon. The committee after hearing the testimony and the testimony primarily referred to shooting, the committee did consider it a possibility of an amendment to make this bill only apply to fire arms but on referring back to the present definition of deadly weapon decided not to amend the bill and recommend that it ought to pass as is.

Sen. BRADLEY: Before the Senate gets the idea that I've suddenly done an about face on mandatory minimum penalties, I want to rise with some explanation as to why I'm not fighting this particular bill. I do still believe that it is not the right way for us to attempt to legislate to lay out a strict mandatory minimum sentence for offenses. However, I do think that the direction that we very well might consider mov-

ing in with other states and the federal government is towards a more patterned, structured sentences being laid down by the legislative body for the courts to follow. For example the kinds of things that seem to be gaining more and more acceptance is a law that would say for example that a person convicted of burglary would get a sentence of four to six years. If the person was armed at the time he would get another one to two years depending on the circumstances. If he used his weapon he would get an additional one or two years. If he fired the weapon he would get additional one or two years. That kind of thing being laid down by the legislature I don't think is wrong. I think its an area we ought to study and look closely at. In other words that kind of middle ground between the traditional thing of letting the judges have total discretion and the kind of bill that Senator Sanborn has proposed where you lay down for one particular offense a mandatory minimum. What I'm suggesting is the direction we ought to be considering is kind of middle ground. Now this particular bill is really not much of an answer; but its kind of along that line and its two years and I try to think of any case that I've ever heard of where somebody had committed a felony and used a deadly weapon and it shouldn't be sent away for two years. While I don't think this is necessary in itself its a great bill. Its kind of a patchwork thing. I don't really oppose it that much.

Adopted. Ordered to third reading.

SB 318, relative to alternative civil proceeding to declare material obscene and to terminate its dissemination. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: This is a bill which is the outgrowth of a bill which was sent to study committee two years ago. This provides an alternative way to go after obscene material. This would allow the prosecution rather than trying to seek a conviction under the criminal law to actually bring an action against the obscene material itself to have the material declared obscene. Then, if anyone sold or dispensed it after it had been declared to be obscene that would be a criminal offence. The law two years ago laid down this civil kind of proceeding as the only way to proceed against obscene material. The attorney general objected to that having his hands

tied in that way. The attorney general does not object to having this alternative method which in many circumstances would be a more appropriate way to try to deal with obscene material.

Adopted. Ordered to third reading.

SB 319, changing the penalty for a first conviction for operating or attempting to operate a motor vehicle upon any way while under the influence of intoxicating liquor or any controlled drug. Inexpedient to legislate. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President after due consideration from the hearing on the bill the committee felt it was not proper at this time to change the penalty for operation under the influence of intoxicants. At the present time one who is convicted may receive a fine up to \$1,000 or up to one year in jail. Basically, this bill would lessen the penalty for this offense and would make it only a \$500 fine. Actually the gist of the bill and the whole purpose of it is to preclude anyone who is charged with this offense from asking or seeking a jury trial. Well, as we know, it's a very serious matter and it is our feeling that it is proper for an individual if they would like a jury trial in such a serious offense to have one at the superior court level. There are those who would say that these cases are the ones that are causing congestion to which we would have to respond it is a most serious offense. New Hampshire reprieves itself on selling a lot of liquor and there is no problem with that. But the fact remains that if we are going to have stores along the highways people are going to stop and buy their liquor and there is no problem with that. But the fact remains that if we are going to have stores along the highways people are going to stop and buy their liquor and drink on the way home and they get picked up we should have at least a sound method for their trial. So we see no necessary reason to have this changed to lessen the penalty and we think the way things have been going is satisfactory.

Sen. MONIER: Senator, with all due deference to the fact that we have liquor stores, most people do not get picked up for DWI by stopping at the liquor store and drinking on the way home. Do you agree with that or not?

Sen. BOSSIE: Well, I would imagine that the people who

generally get picked up are those that probably go out drinking one or two nights a week. They go to a drinking place or a club and on the way home get picked up and they are probably picked up within a mile or so of their home.

Sen. MONIER: That is that they don't normally drive from liquor stores home drunk?

Sen. BOSSIE: Well, I would suggest that there is a greater likelihood they would be drinking once they get to the liquor store than not.

Sen. MONIER: Would you tell me who appeared in opposition to the bill?

Sen. BOSSIE: The only individual that I have on record appearing is Sam Hayes of the Judicial Council and there may be others that I was not present for.

Sen. MONIER: Then obviously Sam Hayes didn't appear in opposition am I correct?

Sen. BOSSIE: I believe he had a very difficult time finding a sponsor for this bill. He asked me and I said definitely not. I believe if you think about it Senator you would have a problem with this too. I think its a little more important than it would appear on the face. It appears we are lowering the penalty but its a lot more than that and I don't think we are ready to do that.

Senator Monier moved to substitute the words "ought to pass" for the words "inexpedient to legislate."

SEN. MONIER: Senator Bossie has actually hit the nail on the head. It is a lot more serious than what he would imply. This bill was brought to me by Sam Hayes from the judicial council and asked if I would sponsor it. I think that its a matter of record I sponsored a bill six years ago on DWI's which I asked that licenses be taken away for a year on the first offense and got the usual kind of question but then how would they get to work, and my response to that was the same as it is now, if they can show me a job where they have to be drinking on their way to work then I'll be glad to repeal the law. The truth to the matter is that we do have tough laws on DWI in the State of New Hampshire and I think we should have. The falsity of the matter is where we tie them constantly to liquor stores because people do not get drunk driving home from liquor stores, they get drunk either at their home or some

party or some place like a cocktail lounge. So the two are not compatible. The thing that this bill does is that it puts a stop to the circumvention of the actual loss of a license even though when a person goes into a district court and pleads to the case and is found guilty he loses his license and as an appeal basis requests a jury trial and the truth of it is by reducing this I believe it makes it a violation and therefore the fine has to be reduced \$500 which does not allow that kind of appeal to be used to put it to district court so the person can keep their license or keep it off the record if they lose by jury trial. What normally happens is it goes into a district court, is convicted and loses his license and he still goes out and appeals and then he get up into the court where the jury is and the jury says well the term may be four or five months before it gets there. It's a long time, they feel sorry for him, and let him off and gets his record cleared. Its a bunch of nonsense. The only real thing that this diminished is the fact that if they are convicted in a district court and they accept that, then it is a violation and so they do not have the appeal right and that reduces the fine. It does not stop them from taking away their license. And so what it is is a statute which I hope we will seriously consider passing. The judicial council has passed on it and felt that it was a very good thing. It does not then allow cluttering up the courts not to find a guy guilty but instead to be using an appeal to clear the record and that's the kind of thing I object to. I hope that we do pass 319.

Sen. BRADLEY: As you recall there was a proposal before the House to reduce the penalty for marijuana from a misdemeanor to a violation and that bill and the people who spoke in favor of that bill were accused of being in favor of legalizing marijuana. Now you have a bill here which also reduced the penalty for DWI from a misdemeanor to a violation. Are you in favor of legalizing DWI Senator Monier?

Sen. MONIER: No. And I will answer your question very simply and I see the smile on your face and I'm glad you warned me about it. The very good difference is about driving a car while intoxicated I could kill someone if I want to smoke marijuana, although I would not accept that that was decriminalizing either, as a matter of fact yesterday I found I voted for one. Thank heavens I found out I shouldn't have and reconsidered it. The difference between the two is very simple in this case. I think the law is being used to clear people's records and I, therefore, feel they should not have that appeal

right on a first offense. If they are convicted of a violation they do not have that right of an appeal for jury trial. What happens as I said before and the court record will show this, I'm sure and the judicial council assures me it is true. That if they have had it in the district court and lost their license and they appear before a jury its two to six months before they get their trial and the people sitting on the jury say well he's had the license gone for six months and they don't convict them. So as a result its not put on the record and that is circumvention of what the intent I think was in the first place. Now if you think the same thing is true about marijuana okay. I don't.

Sen. BRADLEY: Would you agree with me then that there may be occasions when someone would favor reducing the penalty for some offense from a misdemeanor to a violation and that does not necessarily mean that one approves of the offense which you're dealing with.

Sen. MONIER: I would agree with you there.

Sen. BOSSIE: Senator I've been very interested in your bill to legalize drunk driving. I want to know where you get these statistics and I find it very intriguing if you can sustain to me that this is to clear records, I'll let you join my law firm.

Sen. MONIER: Senator I can only refer you back to the body in which you people have control over, the judicial council.

Sen. BRADLEY: I was also asked to sponsor the bill and declined. There is a legitimate purpose here which the sponsor and the judicial council are concerned with. I'm not sure where the statistics are but their purpose and their aim here is valid as far as it goes. However, I've talked with several people about this out in this field so to speak, and a particular law partner of mine who is one of the principal instructors of the state police academy and who I go to for a feeling of whats a law enforcement people may be feeling and I detect the feeling that this is really wrong if we do oppose DWI's and I'm sure we all do that we really shouldn't be reducing the penalty. There well may be times when the judge wants to have the reality there of imposing a sentence for DWI. It may be appropriate in certain circumstances and the threat of having that there is appropriate in many circumstances. Although the objective of the bill has some merit bear in mind what you're doing is saying you're taking away any chance that any person convicted of DWI for the first time would be imprisoned. I

grant you that not many are but I do think its important for us to maintain that penalty on the books.

Division vote: 10 senators voted yea. 9 senators voted nay.

Adopted.

Senator Bossie moved to lay **SB 319** on the table.

Division vote: 11 senators voted yea. 9 senators voted nay.

Adopted.

SB 316, establishing a surrogate parent program in New Hampshire. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: This is a bill introduced by Senator Smith which no one appeared before our committee to testify on. It seems to be as good as motherhood and apple pie and that there was really nothing to be opposed to the bill. The analysis seems to be reasonably accurate. The bill apparently became more important where handicapped children are involved in making decisions and this would allow the commissioner of education to petition to have a surrogate parent appointed to advise the child in connection with these educational decisions. The appointment of the surrogate parent would be good until the child reached 18.

Adopted. Ordered to third reading.

INTRODUCTION OF GUESTS

SB 292, relative to neglected and delinquent children. Refer to interim study committee by senate judiciary. Senator Foley for the committee.

Sen. FOLEY: Mr. President this was a bill that was submitted. Unfortunately the people who have requested us to put in this bill didn't come to the hearing and both Senator Smith and I were quite upset to find out that the cost of this was to be borne in the town in which the children reside. As this seems to be a great bone of contention in many of the bills we

are having today we felt the best thing to do would be to send it to the judiciary to study.

Sen. TROWBRIDGE: Senator Foley you might like to know we have a bill in Senate Finance today which deals exactly with the same issue which would make it clear that if a neglected child the parent could pay. The bill would allow the state to go after the insurance company or whoever would cover the parent and that if its not done the state would pick up the cost. So this issue will be coming back in other bill within a week.

Adopted.

Senator Rock moved that **SB 145** be removed from the table.

Adopted.

SB 145, relative to motor vehicle repair facilities.

Motion of "ought to pass with amendment."

Amendment to **SB 145**

Amend chapter 358-D as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

CHAPTER 358-D Regulation of Motor Vehicle Repair Facilities

358-D:1 Definitions. As used in this chapter:

I. "Motor vehicle repair facility" means any person who performs services or repair work on any motor vehicle.

II. "Motor vehicle" means any vehicle defined by RSA 259:1, XVII except "motor trucks" as defined by RSA 259:1, XVI.

III. "Person" means any person defined by RSA 358-A:1, I.

IV. "Customer" means any person, or representative thereof, who is seeking to have performed, is having performed, or has had performed, any service or repair work on a motor vehicle.

358-D:2 When Written Estimate Required. Upon the request of any customer, a motor vehicle repair facility shall

provide a written estimate to the customer in advance of performing any service or repair work. The written estimate shall contain:

I. An itemization of the service or repair work to be performed;

II. An estimated price for labor and parts necessary to complete the work; and

III. An estimated completion date.

358-D:3 Authorization to Proceed. A motor vehicle repair facility shall not perform any service or repair work set forth in the written estimate unless it receives the written permission of the customer to proceed; provided, however, that if it is impracticable to give the customer a written estimate or obtain his written permission to proceed, the motor vehicle repair facility may orally advise the customer of the items contained in the written estimate and obtain his oral permission to proceed.

358-D:4 Additional Service or Repair Work. If additional service or repair work of an unrelated and different nature from the work originally itemized in the written estimate becomes necessary, a motor vehicle repair facility shall notify the customer of the estimated cost of such additional work and receive his written or oral permission to proceed before performing the work.

358-D:5 Effect of Exceeding the Estimate. Upon the completion of any service or repair work for which an estimate has been given, a motor vehicle repair facility shall not charge the customer any amount which exceeds the estimate by 10 percent without his written consent.

358-D:6 Service or Repair Delay. A motor vehicle repair facility is not liable for breach of the written estimated completion date for service or repair work if the delay is caused by:

I. An act of God;

II. Strike;

III. Unexpected illness;

IV. Unexpected shortage of labor or parts; or

V. Unavailability of customer to give permission to perform additional service or repair work.

358-D:7 When Written Estimate Not Required. A motor vehicle repair facility shall not be required to provide a written estimate to a customer if the facility does not agree to perform the service or repair work; provided, however, that

no such facility shall engage in any act or practice which causes, or has the effect of causing, any customer to waive his right to an estimate as a condition to performing any service or repair work.

358-D:8 Service or Repair Work Where Estimate Not Requested. Notwithstanding the foregoing paragraphs, if a customer does not request that an estimate be provided, a motor vehicle repair facility shall not perform any service or repair work on any motor vehicle for the customer unless such work has been authorized by the customer.

358-D:9 Return of Replaced Parts. With the exception of parts required to be returned to the manufacturer or distributor under a warranty or exchange agreement, all parts which have been replaced on a motor vehicle by a motor vehicle repair facility shall be returned to the customer if the customer has requested, in advance of the work being performed, that the parts be returned to him.

358-D:10 Required Work Invoice.

I. Upon completion of any service or repair work for which a charge is made, a motor vehicle repair facility shall prepare an invoice which itemizes:

(a) All work that the motor vehicle repair facility has performed;

(b) All work that any subcontractor has performed;

(c) All parts supplied having a value in excess of \$.50 and the retail cost of each such part; and

(d) The number of hours, or portion thereof, of labor charged in performing the work and the retail cost of such labor.

II. The invoice shall state clearly whether or not the motor vehicle repair facility will guarantee the work and, if so, the terms of the guarantee and the period for which it will be in effect.

III. The invoice shall state clearly if any used, rebuilt, or reconditioned parts have been supplied or if a part of a component system supplied is composed of used, rebuilt, or reconditioned parts.

IV. A motor vehicle repair facility shall be responsible for any service or repair work performed by a subcontractor in the same manner as if the work had been performed by the facility.

V. The motor vehicle repair facility shall give the customer

a copy of the invoice and shall retain a copy as a business record for one year.

358-D:11 Notice Requirements. Each motor vehicle repair facility shall conspicuously post a notice of no fewer than 6 square feet on the premises of the facility for the purpose of advising any customer of his rights under this chapter. The notice shall contain the following information:

I. The motor vehicle repair facility must provide to any customer upon request a written estimate for service or repair work to be performed and cannot proceed to perform such work unless written or oral authorization is obtained;

II. If additional repair or service work of an unrelated and different nature from the work originally itemized in the written estimate becomes necessary, it must notify the customer of the estimated cost of such additional repairs and obtain his written or oral permission to proceed;

III. The customer cannot be charged any amount which exceeds the estimate for the original or additional work by 10 percent without his written consent;

IV. The motor vehicle repair facility is not required to give a written estimate if it does not agree to perform the service or repair work. However, the facility is prohibited from engaging in any conduct which will cause a customer to waive his right to an estimate as a condition to performing any service or repair work;

V. Even where a customer has not requested an estimate, the motor vehicle repair facility is not permitted to perform any service or repair work without his authorization;

VI. The customer has a right to a return of all replaced parts, except those parts required to be returned to the manufacturer or distributor under a warranty or exchange agreement, if he requests that they be returned to him prior to the service or repair work being performed;

VII. The customer must be provided with an invoice for any service or repair work performed which itemizes all work performed, all parts supplied having a value in excess of \$.50 and all labor charged and states whether or not any guarantee exists, and if so, its terms and the period for which it will be in effect;

VIII. A motor vehicle repair facility which fails to comply with any of these requirements is not entitled to any payment whatsoever for any service or repair work performed; and

IX. Any complaint concerning a failure of a motor vehicle

repair facility to comply with these requirements should be filed with the Consumer Protection Division, Attorney General's Office, State House Annex, Concord, New Hampshire 03301.

The attorney general may, in his discretion, approve any notice which substantially complies with the requirements of this paragraph.

358-D:12 Remedies.

I. Any violation of any provision of this chapter is an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right or remedy set forth in RSA 358-A may be used to enforce the provisions of this chapter.

II. Any motor vehicle repair facility which violates any provisions of this chapter with respect to any service or repair work performed on a motor vehicle for any customer shall not be entitled to any payment whatsoever for such work. Payment by any customer of charges presented by a motor vehicle repair facility for service and repair work performed shall not be construed as a waiver of any right set forth in this chapter.

Sen. ROCK: Mr. President the amendment that was offered by the committee had one problem with it and another very small amendment was worked out that would correct that problem. There was another question regarding **SB 145** that was raised by Senator Trowbridge and Senator Trowbridge has an additional amendment. At this time I would hope that the senate would consider the amendment before it from the committee and that we pass that amendment. At that point, I would bring before the senate another amendment which you just had deposited on your desk and then it is my understanding that Senator Trowbridge will present another amendment and I think after that the bill will be agreed upon by all parties that this is what was originally intended and acceptable to all. I move adoption of the committee amendment.

Amendment adopted.

Senator Rock moved a further amendment to **SB 145**.

Amendment to **SB 145**

Amend RSA 358-D:11, VIII, as inserted by section 1 of the

bill, by striking out same and inserting in place thereof the following:

VIII. A motor vehicle repair facility which fails to comply with any of these requirements is not entitled to any payment whatsoever for any service or repair work performed which was not authorized by the customer; and

Amend RSA 358-D:12, II, as inserted by section 1 of the bill, by striking out same and inserting in place thereof the following:

II. Except as provided in paragraph III of this section, any motor vehicle repair facility which violates any provision of this chapter with respect to any service or repair work performed on a motor vehicle for any customer shall not be entitled to any payment whatsoever for such work.

III. A motor vehicle repair facility shall be entitled to payment for service or repair work performed on a motor vehicle to the extent such work was authorized by the customer pursuant to this chapter. The burden of proving such work was so authorized shall rest on the motor vehicle repair facility.

IV. Payment, by any customer, of charges presented by a motor vehicle repair facility for service or repair work performed shall not be construed as a waiver of any right set forth in this chapter.

Amendment adopted.

Senator Trowbridge moved a further amendment to **SB 145**.

Amendment to **SB 145**

Amend RSA 358-D:1, II, as inserted by section 1 of the bill, by striking out same and inserting in place thereof the following:

II. "Motor vehicle" means any vehicle defined by RSA 259:1, XVII except "motor trucks," "motorcycles" and "motor-driven cycles" as defined by RSA 259:1.

Sen. TROWBRIDGE: During the discussions on this bill dealing with motor vehicle repair facilities, I had two con-

sitiuent companies both of whom deal primarily with motorcycles and bicycles and as the bill was first drafted it would have included the repairs of motorcycles and bicycles. All the problems of the motorcycle trade is there are no spare engines. They didn't put in new engines. What happens is repairing that if someone brings a motorcycle in and its got a big noise in the motorcycle engine, the repair man has to go in, start taking it apart then find out what's wrong and then he give an estimate of what its going to cost to fix the engine. Secondly, they do not have part lists available with prices the way the motor vehicle does. So that in order to make estimates the way this bill calls for is very difficult for the motorcycle people. The only way I could find to handle the situation was to ask Senator Rock if there was any real reason to include motorcycle repairs. In talking with John Funk who is in the consumer protection of the attorney general, John said they get very few complaints on the motorcycle side. That is not the problem they are having and therefore he had no objection if we exempted motorcycles. Thats all my amendment does.

Sen. LAMONTAGNE: Mr. President members of the senate as of this morning I was going to be in opposition to the proposed bill that's before us right now. But since I've seen this this morning along with Senator Poulsen we have seen a repair bill from a garage in the city of Concord. I personally feel this is a good piece of legislation to have. The person had been into my garage in Berlin and I did not have the part that was needed to fix the car. The car went to this garage here in Concord and therefore instead of giving him a motor tune-up he went through the whole car the total amount of the bill was \$222.00. Representative Richardson, who is the victim in this case, turned around and informed the garageman that he said \$39 for breakshoes and there was a charge of over one hundred dollars. The total bill she had to pay was \$188. Because of what I have seen this morning it has changed completely my mind and therefore I now favor the bill. I would not have any objections to the proposed amendment about excluding the motorcycles.

Amendment adopted. Ordered to third reading.

SB 165, relative to the use of force in defense of property. Inexpedient to legislate. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President I guess the question on the bill is whether or not distinguished senators, Monier, Sanborn, Rock, Provost Bergeron, McLaughlin, and Healy could all be wrong. I suggest to you that the senators who sponsored this bill have been misinformed about what their bill does and the source of their bill and this is a very bad, a dangerous piece of legislation which would allow deadly force to be used under circumstances I don't think any of us in this room would agree that it should be used. One of the pieces of misinformation, if you read in the first sentence of the analysis, says this bill is based on the Maine law, and everyone that came to testify before our committee and incidently everyone did testify in favor of the bill and no one against it. Many of the people who testified on this bill said how well this particular law was working in the State of Maine. It had been adopted there a year ago and there have been no unfortunate incidents as a result of this law. The law made a lot of sense and was working well. I thought that maybe we had better run that one down before we voted on a bill like this so I went to the research office and Nina Gardner called the attorney generals office to find out what this Maine law was that was so great that all the sponsors thought we ought to enact in New Hampshire. This is what we found. Maine did in fact adopt a statute dealing with this subject matter about a year ago March 1, 1976. There are several different sections here which some of the words are quite similar to the words in this bill. The section 104 here of the Maine criminal code which adopted about a year ago entitled to Use of Force in Defense of Premises. I read through it and it look awfully familiar to me. Then I read the comment below it, it said this section is taken form the New Hampshire criminal code. Then I read section 105 Use of Force in Property Defenses. Again it looks awfully familiar to me. I look at the comment and it says this section taken from the New Hampshire criminal code. Then I read finally another section which is in this subject matter section 108 Physical Force in Defense of Person and again it looks very familiar to me. I read down here bottom at the comment "this section is patterned on the New Hampshire criminal code." The Maine law on the question of defense of your premises of defense of your person is identical word for word to the New Hampshire criminal code as it now exists. This bill here I don't know where it came from but I've been unable to find any law in another state which is like this and I suggest to you this goes far

beyond any other law in any civilized country that I know of. Now, its a little bit tough to follow but I'll ask you to try to do it as to what this would permit. If you look on page one of the bill section one, roman numeral one—that's no problem. That is statement of the existing law. The problem starts on number two and I'll read it and try to pick out the broadest application which is this: a person privileged to be on a piece of land is justified in using deadly force upon another when he reasonably believes its necessary to prevent the commission of a criminal trespass by such other person who he reasonably believes has entered on or is attempting to enter on to the land without a privilege to do so and is likely to commit some other crime on the land. One of two circumstances where he reasonably believes it would be dangerous to himself or another to demand the other person to terminate the criminal trespass or where the other person fails to immediately comply with the demand to leave. Okay, think about that for a minute if you will. Someone is on your land you don't think he has any good business of being there. You ask him to leave and he doesn't leave. You can kill him if someone is about to enter on your land, got a gun, may be a hunter heading for the back but he's about to enter your land and you think he's up to no good. You don't even have to warn him presumable because after all he is armed and it might be dangerous to you to give him a warning so you blast him away. I'd like for you to think of the Seabrook situation. You got 1400 people sitting out there on someone else's land. They have no privilege to be there under the meaning of this law and they are asked by somebody who does have a privilege to be there to leave. Perhaps they are committing some other crime. They are spitting on the sidewalk or building a fire without a permit or sleeping on the ground, violation of zoning law or something, but they are committing some other offense. They are asked to leave and they don't leave. This law says mow them down, thats what it says. The kind of concerns that the people came to our committee with involved defending yourself or defending your premises. That is already covered under the law. That's the New Hampshire law. There is plenty of authority well worked out, well reasoned, well written, to allow you to defend your family or yourself. I'll give you another example of where the parties are disputing who own the land, where the boundry line is. One of the individuals who happens to be our client was out on the section of disputed ground the other day and

he heard a shot and said he heard a bullet go whistling by his head, and he was a little upset with the situation. He doesn't know if anyone shot at him or not, but the point is that if he had been shot I suppose then the issue becomes whether or not he was on the other guys property. You can have fun with a bill like this. I've had some fun with my partners about how you would try that case and what the issue would be for the jury and I guess the issue would come down to this. If you find that the country is to the west of the deceased you'll convict, a murderer. If you find it is to the east of the deceased then you will apologize to this man for trying him.

Sen. BOSSIE: Senator as I understand this bill if I own some property next door to you and I come over to borrow your wheelbarrow and I go on to your property and your wife says, "Oh sure Bob you take the wheelbarrow home." So I'm driving across your property with your wheelbarrow and you come home with your shotgun, you see me stealing your wheelbarrow, you don't know that I have already gotten permission from your wife to borrow it and you knock me off, is that what this kind of bill is going to mean?

Sen. BRADLEY: I'm afraid that's the sort of thing, at least I'm going to ask you to stop and you didn't stop quick enough or even if you did then I testified in court and said you didn't stop and the jury believed me, I'd be home-free.

Sen. LAMONTAGNE: Senator what would this bill do if right now someone set a fire at the LOB building just about 15 minutes ago. What would this bill have to do with this?

Sen. BRADLEY: Well under the existing law there is a provision already for using deadly force in the case of someone committing arson on the premises. I don't think that this . . . I think the answer is basically that this doesn't particularly extend anyones right to deal with someone committing arson the rights under this bill would be about the same. I think identical with the existing law.

Senator Bergeron moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. BOSSIE: Mr. President I arise in opposition to this motion. As we know, we haven't heard one word in support of the bill. Frankly, its a media bill. It sounds great from the title of it in the use of force in the defense of your property; but as a matter of fact its a bad bill and a bad law. Let me tell you of

an instance that happened to me last summer in my home to show you how bad this bill would be. I was swimming one afternoon in my swimming pool and the door bell rang at the front door so I got out dried myself off went through the house and opened the door and there was one of my neighbors in a way, he lived up the road, who happened to be inebriated. So I tried to say what do you want; but he wanted to come in and talk to me about a problem. The problem was regarding the city of Manchester that he wanted to sue for a million dollars and it obviously was baseless sort of thing and plus he was drunk. I said I'm really not interested. Why don't you call and we will talk about it some other day when you're feeling a little better and he was very offended and refused to leave my home. I was very offended. The choice was shall I throw him out of the house physically and he wasn't much bigger than me. So I chose not to. The fact remains that I could have, and I don't particularly have a fire arm but I could have gotten one and threatened him with it to get out of my house and I suppose the law would have still frowned upon that. I very simply used the telephone and called the police. As soon as I did that the little blue bulb started coming up my driveway he got out quick and at that point I just shut the door. This sort of bill almost promotes things like that. It was very easy to use the telephone and that's what we have police for. Let us use common sense about it. The law that we have is a good one, our statutes with regards to this are perfectly satisfactory and I intend to vote against this motion and against the bill.

Sen. MONIER: I appreciate what senator Bradley has said. We listened to a good legal analysis of this bill and I appreciate it Dave question one, where you come to roman numeral one maybe we could read what it says. It says a person in possession or control of premises or a person who is licensed or privileged to be thereon is justified in using nondeadly force upon another when and to the extent that he reasonably believes it is necessary to prevent or terminate the commission of a criminal trespass by such other in or upon such premises. Nobody found fault with this so we are half way down the page. Roman numeral two. A person in possession or control of a dwelling place or premises or a person who is licensed or privileged to be therein is justified in using deadly forces upon another in the following two circumstances: (a) in defense of a person as prescribed in RSA 627:4; which is to prevent injury to yourself and (b) when he reason-

ably believes it necessary to prevent or terminate the commission of a criminal trespass by such other person, who believes (1) attempting to commit arson, and I think that was overlooked by Senator Bradley and (2) he has entered or is attempting to enter the premises or has surreptitiously remained within the premises without a license or privilege to do so and is committing or likely to commit some other crime within the premises. Lets talk about that a minute. It means that senator Bossie is right if he so desired to he himself stated that it calls for common sense and I think this bill calls for common sense too. However, you will note it is not just for somebody walking across your front lawn it is a person in the dwelling committing arson or is entering or attempting to enter within it or remain hidden there for any surreptitious purpose he might have. Lets go to III. A person may use deadly force under paragraph II (b) only if he first demands the person against whom such deadly force is to be used to terminate the criminal trespass and the other person fails to immediately comply, your talking about the guy who is committing arson. You're not talking about the guy thats out in the back lawn, unless he reasonably believes that it would be dangerous to himself or another to make the demand. Now we've heard the incident of answering the front doorbell. We've heard the incident of the man out back and you could go on with this case after case. I don't think we are adding anything here that the New Hampshire law has not heard about and which also exercises what both people have said, calls for good judgment. I think what you are doing is protecting yourself from something else and that is the common practice today that has happened not statistically but newswise and I appreciate the fact that this may be a good media bill to the effect that now days it seems to be that the victim is being forgotten time after time. That the guy for example, the case in New York City where the person was finally committed, I believe for manslaughter, when a person was hiding in the building, remained there, the woman arrives there, the guy attracts her, she tries to beat him up, she goes downstairs into the basement and finally I guess she shot the guy. She was convicted of manslaughter, tried and found guilty of manslaughter, because the court ruled that she could have gone out the bulkhead. Now I know that this is the premises of retreat and I'm not a lawyer. I think there is a difference between the Maine and New Hampshire laws; but the point here is not a matter that you

should shoot somebody, that you ought to shoot somebody or that you will shoot somebody. Its a simple fact of protecting those people who are looking after the rights of a person on their property in their dwelling, trying to gain entrance to it to commit arson, and there surreptitiously waiting in the building for something or any other matter of that type. There is no law made today or this one that's not going to make people exercise good judgement. And I'm the first one to agree to that. I think this gives a little added protection.

Sen. BRADLEY: Senator Monier do you know of any case in the State of New Hampshire decided under our criminal code that you don't think is justified or is proper ruling?

Sen. MONIER: No. I don't know that that is pertinent to this.

Sen. BRADLEY: Perhaps the New York law, which I don't know of on this point, is a bad law: but should that mean that we should change the laws of the state of New Hampshire which are perfectly okay as they are?

Sen. MONIER: Senator Bradley, I did not cite a law from New York State because I did not know of a law in New York State which was used for this. I cite a case in point of what happened, the same as you did and have in cases in front of the committee in Hanover, about the people trying to get in at night to use the telephone. You did not indicate at that committee but my understanding in talking with you is that he did not shoot them, therefore he exercised good judgement. Good judgment is not going to be legislated by one law or the other. The thing I feel this law does is simply that it allows me as a person who owns a piece of property to protect myself from another individual under certain circumstances. It allows me to protect my property if someone is inside of that property or trying to enter or trying to come out. It also says that I must give him notice unless I believe that it is dangerous and I can think of circumstances that would be dangerous and so forth. I don't know that it does anything more than what the New Hampshire law does now. It just spells it out the way I like to see it.

Sen. BRADLEY: Senator Monier lets take this a little further. The New York case that you cite where apparently it was ruled as you say that the woman was supposed to retreat.

Sen. MONIER: I said the court found her guilty of manslaughter.

Sen. BRADLEY: That was apparently the basis that she

was supposed to have retreated in her own home. But you understand don't you that the law in the state of New Hampshire is as the law of the state of Maine is both being exactly word for word the same. When a person is not required to retreat if he is in his dwelling and was not the initial aggressor.

Motion failed.

Senator Rock moved that **SB 165** be laid on the table.

Division vote: 8 senators voted yea. 11 senators voted nay.

Motion failed.

Motion of inexpedient to legislate.

Adopted.

Senator Bradley moved reconsideration whereby **SB 165** was inexpedient to legislate.

Motion failed.

SB 180, improving the manner of creating and maintaining condominiums and providing for full disclosure in condominium sales. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: I defer to Senator Jacobson: I was under the understanding that Senator Jacobson, a member of our committee, wanted to be heard while at the same time he was acting as the governor. So he is here and he would like me to address the Senate with regards to this bill. This bill was prepared by John Funk of the Attorney General's office as well as John Pendleton of a local law firm who represents the other side, as it were, in this matter. He represents the developers. As you recall, two years ago we had a very similar bill which was before the committee on consumer affairs which we sent to interim study. During that time this bill came up and it is fairly complex. You shouldn't be scared by the size of the document which is 95 pages. It provides for a system for the creation and continuity of condominium and ownership of common land. And as you'll notice on the calendar there is a land sales disclosure act coming up and that is consistent with this. So for once our laws will be consistent. It's really a good idea. This would require that for any condominium consisting of more than 10 units, the owner would file a disclosure state-

ment to the office of the Attorney General and the Attorney General's office advises us they do not need any more staff with which to handle this because as we know the sale of condominiums, although it's growing in New Hampshire, is not at such a point as to require any full time people because of this. My first concern for a bill of this nature was when I saw a national television program with regards to condominium sales in Florida whereby a number of older people would go to Florida, offer sight unseen, and they would buy apartments in these large condominium units and they would pay \$30-\$40-\$50,000 for a condominium unit and as part of the rather detailed purchase agreement there would be a requirement that they participate in the extra-curricular activities of the area which included a swimming pool. A number of these people were 80 years old and they really had no use for a swimming pool nor for some of the other activities that they were required to do. The program portrayed this as a rip off. To preclude that our law as drawn up by the individuals would limit this and have the unit condominium unit owners form an association to control the destiny of their property and condominium units can be sold. I think it's a fairly good bill. I think a lot of time has been put into it and the committee has worked deliberately on this bill. If I can answer any questions, I might ask Mr. Funk who is up in the gallery if he would be kind enough to come down here to give me any answers that I may not know.

Adopted. Ordered to third reading.

SB 181, amending certain provisions of the land sales full disclosure act. Ought to pass with amendment. Senator Bossie for the committee.

Sen. BOSSIE: The amendment may be found on page 13 of today's calendar. This amendment which is attached to the bill was sponsored by a number of Senators. Senator Smith, Foley, Trowbridge, Jacobson, Blaisdell, Downing and myself would basically amend the current laws with regards to land sales full disclosure and we had been working on that for a few years. All the amendment does is to increase the number of lots for sale from 10 to 25 so that the smaller owner is the individual who has three or four lots to develop would not be under the sales and disclosure act. But those who have 25 or more subdivided parcels would come under the term and this

is a procedure by which one who is in the business of buying 1,000 acres and dividing it up into 700 lots would have to disclose certain things in it. Mr. Funk of the Attorney Generals office has worked on it as well as Mr. Pendleton and there were representatives of the Homeowners Association who agreed with the amendment with 25 lots. Senator Brown and I heard the testimony and it took a lot of time to hear this to make sure it's minimal to all parties concerned and it appears to be.

Sen. SMITH: I am fully in favor of the bill as being a sponsor of it. I'm deeply concerned about the amendment which increases the number of lots from 10 to 25 because, do you realize, Senator, up in my part of the state there are a lot of old cabins and motels with 5, 10 or 15 under 25 category that can be picked up, purchased and turned into condominiums.

Sen. BOSSIE: Senator, the answer to that and I've been advised is that the new condominium law that we just passed applied to 10 so that would be a condominium. This is for the general development of our land. This would apply to those of 25 or more.

Sen. SMITH: Would this apply, however, under the conditions if a person bought a set of cabins or an old motel that is beginning to fade a little and then sold those units and the land?

Sen. BOSSIE: Let me say this, to be classified as condominiums usually you have retention of ownership of some space. There, is that what we would have in that situation?

Sen. SMITH: I'm not talking condominiums. I'm talking about subdivision of a motel property—not a one unit deal but rather a series of cabins and put them on small lots.

Sen. BOSSIE: Basically, before one could do that one would have to apply at the local planning board as we know. Is this the type of thing the local people should control?

Sen. SMITH: Are you sure that they would have to apply and then the planning board would have authority in such a circumstance?

Sen. BOSSIE: I'll give you some legal advice. As we know, perhaps some of the smaller municipalities are very scared of planning boards, boards of adjustments, everything other than the selectmen. If they want to determine their own destiny, it's their town.

Sen. SMITH: Would you believe in some instances it might be a nondetermination of destiny?

Sen. BOSSIE: I certainly would believe that.

Sen. SMITH: Senator, if there is no planning board or if the planning board has no rules and regulations and we've been talking about the consumer today, then somebody could buy one of these cabins and get really hooked without any disclosure as is outlined in this bill, is that correct?

Sen. BOSSIE: Well, the type of person who would buy something like that isn't the type of person that would say "gee, there must be a land disclosure act in New Hampshire I'm going to trot down to the Attorney General's office and Secretary of State to find out what it is." That type of person usually comes from without the borders and is hungry to have this piece of property at a buy and then they find out there is no sewage, there is no water, there is no subdivision but the town, if there is proper planning, can go to court to remedy that.

Sen. SMITH: Would you believe me that some of those people may come from out of state, buy those for the express purpose of reselling a "country estate" and lead people possibly hooked?

Sen. BOSSIE: I see that; but at the same time I think you have to have a happy medium. There are a lot of people who own probably 25 acres and divide them up into 25 lots. Do you want to have them go through the force of this law which may be expensive or shall we make this apply to the larger subdivisions? This is a happy medium. All the interest considered, we thought 25 would be reasonable.

Sen. SMITH: What you're saying, though, then if somebody bought an old cabin colony type establishment that had 24 units on it on 25 acres of land and there was no planning board that they could then under this amendment sell those lots and the cabins on them without any kind of full disclosure?

Sen. BOSSIE: If they are not condominiums, yes; but at the same time you must admit in those situations the town will have willed it. They will these things to happen because they don't want planning and this is what they get. Most substantial towns, especially those with valuable property or those with substantial populations, have adopted these restrictions so as to protect the town but in those other cases they are running a risk.

Senator Lamontagne moved that **SB 181** be made a special order for Thursday, May 5 at 11:01 a.m.

Adopted.

SB 153, relative to units of measure in the sale of wood. Ought to pass with amendment. Senator Bossie for the committee.

Amendment to S B 153

Amend RSA 339:16 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

339:16 Cord Dimensions. When used as a unit of measure for fuel wood, a cord shall mean the amount of wood 4 feet in length well and closely laid together in a quantity 4 feet high and 8 feet long. Normal shrinkage resulting from the cutting or sawing into shorter lengths at customer request shall not be construed as a short measure.

Amend RSA 359-A:35 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

359-A:35 Wood.

I. It shall be unlawful to sell or offer to sell in this state any wood for fuel purposes, except standing trees or wood waste products, in any other manner than by the cord or fraction thereof, unless the parties to the transaction otherwise agree.

II. By-products of wood processing and manufacturing industries and standing or fallen trees may be sold in any way agreeable to the parties involved.

Sen. BOSSIE: Mr. President, the amendment to **SB 153** is located on page 13. This is a bill put in by Senator Bradley and it's a bill relative to the units of measure in the sale of wood. Former Senator Townsend who is now the Commissioner of Agriculture requested this bill, apparently to preclude any misunderstanding in the interpretation of this description of wood applying to wood for retail sale. So if you look at the amendment, it says "when used as a unit of measure for fuel wood, a cord shall mean the amount of wood 4 feet in length well and closely laid together in a quantity of 4 feet high and 8

feet long.” Now the interesting thing is the next sentence. Normal shrinkage resulting from the cutting or sawing into shorter lengths at customer request shall not be construed as a short measure. Now the interesting part to most folks that don’t know that much about sawing wood, and I wish I knew more is that, say, you order a cord of wood. Well, if you get wood that’s 12 feet long delivered to you, you’re probably going to get less and if you have it sawed into 6 inch pieces of wood you’re going to get more and this is something I had a hard time understanding. If you order ice cream frozen or in a liquid form there is a difference. But when we sat down and deliberated it and thanks to the senators from the north country, we discovered that by the nature of wood products they go up and down and they bend and that by being of shorter lengths you would get more. So it appears that the amendment is good. Senator Poulsen had a great hand in working it out.

Sen. LAMONTAGNE: (tape change)

Senator BOSSIE: Senator, I think to answer that I’m going to have to make that a special order for tomorrow. Would that be okay? Actually, I don’t know that much about wood. I’m just a struggling lawyer down in Manchester but I understand from the wisdom of my Senators from my right that this is a dimension of a cord and so these aren’t taken out of the sky, but actually they’ve been in use for some time.

Sen. LAMONTAGNE: Mr. President, seeing that the attorney can’t answer the question, I withdraw the question.

Amendment adopted. Ordered to third reading.

SB 184, relative to the time involved for a final disposition of a neglected child and providing that the placement of a neglected child, person in need of supervision or delinquent child shall not be at state expense. Ought to pass with amendment. Senator McLaughlin for the committee.

Amendment to **SB 184**

Amend the bill by striking out sections 1 through 4 and inserting in place thereof the following:

1 Custody. Amend RSA 169:7, I (supp) as amended by striking out said paragraph and inserting in place thereof the following:

I. A neglected child may be retained in the custody of the person having the child in charge, or in the custody of the director of the division of welfare, department of health and welfare, or may be kept in some suitable place other than the youth development center at the expense of the person or persons chargeable by law for the maintenance, care or other necessities of such child. If the court finds that such person or persons are unwilling or do not have sufficient ability to pay, then such expense is to be borne by the city, town, or county in which the child resides, and the city, town, or county shall have a right of action over for such expense against the person or persons legally chargeable. In any case involving a neglected child, a final disposition pursuant to RSA 169:10 shall be made by the court within 90 days after the date of the initial hearing.

2 Custody. Amend RSA 169:7, III (supp) as amended by striking out said paragraph and inserting in place thereof the following:

III. A delinquent child may be retained in the custody of the person having the child in charge, or in the custody of the probation officer, or may be kept in some suitable place at the expense of the person or persons chargeable by law for the maintenance, care or other necessities of such child. If the court finds that such person or persons are unwilling or do not have sufficient ability to pay, then such expense is to be borne by the city, town, or county in which the child resides, and the city, town, or county shall have a right of action over for such expense against the person or persons legally chargeable, provided, however, that if the court places such child in the custody of the youth development center, final disposition of his case shall be made within 30 days after such placement.

3 Maintenance. Amend RSA 169:11 by striking out said section and inserting in place thereof the following:

169:11 Maintenance. The expense for the maintenance and care of any such child shall be borne by the person or persons chargeable by law for the maintenance, care or other necessities of such child. If the court finds that such person or persons are unwilling or do not have sufficient ability to pay, then such expense is to be borne by the city, town, or county in which the child resides, and the city, town, or county shall have a right of action over for such expense against the person or persons legally chargeable.

4 Local Liability. Amend RSA 169 by inserting after section 14 the following new section:

169:14-a Liability for Expenses. Any neglected child, person in need of supervision or delinquent child placed in the custody of the director of welfare or otherwise placed pursuant to RSA 169 shall be kept at the expense of the person or persons chargeable by law for the maintenance, care or other necessities of such child. If the court finds that such person or persons are unwilling or do not have sufficient ability to pay, then such expense is to be borne by the city, town, or county in which the child resides, and the city, town, or county shall have a right of action over for such expense against the person or persons legally chargeable.

Sen. McLAUGHLIN: Mr. President, members of the Senate, I think this is kind of a strange bill for us that Senator Bossie and Senator Bradley were requested by the department of Health and Welfare to draw up. They are in favor of it. We heard the bill. The amendment is just tightening up to the 90 day restriction saying the court has to make a decision at that time. Recommend this be passed. We see no problem with it whatsoever.

Amendment adopted. Ordered to third reading.

SB 273, establishing guidelines for the establishment of rates for nursing homes under the medical assistance program. Interim Study. Senator McLaughlin for the committee.

Sen. MCLAUGHLIN: Mr. President, members of the Senate, unfortunately we didn't get **SB 273** into our committee until yesterday. We had a hearing on it immediately and we heard it. It is a very worthwhile bill. Deserves a lot of merit, lot of consideration, a lot of guidelines are in there on setting up nursing homes in the future. We realized with the time limit there was no way possible to adjust to this bill so the committee recommended that it be sent to a study committee so the next time we have a session we can come out with a bill with a little bit of changes to it and make it a worthwhile bill mandatory for nursing homes in the State of New Hampshire.

Sen. TROWBRIDGE: Was it pointed out to your committee that one of the problems we are facing now is that by not paying enough of the allowable cost for Medicaid people going

into nursing homes that the nursing homes are closing off access to Medicaid patients. Was that brought out?

Sen. MCLAUGHLIN: Yes, it was.

Sen. TROWBRIDGE: So if we don't do something, there is going to be a danger that more and more Medicaid patients will not be accepted by nursing homes and then at that point you either have to raise your rate or build a county nursing home. Those are the only two options?

Sen. MCLAUGHLIN: That is correct.

Adopted.

SB 260, relative to licensing psychologists and regulating the practice of psychology. Interim study. Senator McLaughlin for the committee.

Adopted.

Sen. MCLAUGHLIN: Mr. President, members of the Senate, the same holds true for **SB 260**. It deserves a lot of study and we had a mix of people there who were very serious and sincere. Half were for the bill and half were against it. There was no way humanly possible we could put the two together to make amendments to this bill at this time. We do think there are some problems in this area and do feel in time we can correct the errors in it and get everybody together, something like a chiropractor bill. We had a very strong feeling on one side and extremely strong feeling on the other side and there was no way in two hours that we could do justice to this bill.

Sen. MONIER: Senator, was your committee aware that there is a bill in the House that takes care of, or shall I put it the other way, did the committee recognize that this bill was from one group and that there is a bill coming through from the House which represents the other group?

Sen. MCLAUGHLIN: The answer is no.

Sen. MONIER: I'd like to support this inexpedient or interim study. Can I have some assurance when that other bill comes in we can do the same thing?

Sen. MCLAUGHLIN: To the best of my ability, I can assure you of that.

SB 307, relative to deceased funeral directors. Ought to pass with amendment. Senator Provost for the committee.

Amendment to SB 307

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Widows to Continue Funeral Business. Amend RSA 325:37 by inserting in line 7 after the word "determine." the following (The widow of a licensed funeral director or the wife of one who is incapacitated may continue to operate his business providing she employs, within 90 days of such death or incapacity, a person who holds the required certificate or certificates, has passed such examinations as the board requires to engage in funeral directing and holds a certificate of registration from the board.) so that said section as amended shall read as follows:

325:37 Deceased Funeral Director. The board may by a special rule or by regulation permit the continuance of the business of a deceased funeral director duly registered as such by the board, under the active supervision of a person or persons holding the required certificate or certificates, for the benefit of the widow and family, for the estate or for persons interested in the estate of the decedent during such a period of time and in such manner and under such conditions as the board may determine. The widow of a licensed funeral director or the wife of one who is incapacitated may continue to operate his business providing she employs, within 90 days of such death or incapacity, the required certificate or certificates, has passed such examinations as the board requires to engage in funeral directing and holds a certificate of registration from the board.

Sen. PROVOST: Mr. President, what the amendment does is give the widow of a funeral director 90 days to hire a licensed funeral director. As it is now if the funeral director dies the widow has to sell his business right away. She can't operate the next day. The bill gives the widow the right to hire a director but this amendment will give her 90 days to find a director.

Sen. LAMONTAGNE: Senator, when you say 90 days, does this mean in the meantime she can operate the business as well?

Sen. PROVOST: That is true.

Sen. LAMONTAGNE: So, in other words she can continue

the business by having someone coming over and finding somebody to keep the business going?

Sen. PROVOST: Right.

Amendment adopted. Ordered to third reading.

SB 17, permitting nonprofit social clubs holding a liquor license to charge members and guests to cover entertainment costs. Ought to pass. Senator Keeney for committee.

Sen. KEENEY: **SB 17** would allow those social clubs that now hold a liquor license to assess their members when they have additional entertainment. It would be entirely up to the clubs themselves when and to what extent they wanted to assess their members. The bill was heard last January, was presented by Senator Lamontagne on behalf of the associated social clubs. For the Liquor Commission, Mr. Tassie appeared without being for or against the bill, but was there to answer questions of the committee. Two individuals who appeared against the bill seemingly were representing restaurants which feared that social clubs having entertainment of this nature might be in competition. The committee finally decided that the fears were unfounded and recommend the bill ought to pass.

Adopted. Ordered to third reading.

SB 106, relative to sweepstakes commission advertising. Ought to pass with amendment. Senator Bradley for the committee.

Amendment to **SB 106**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to the policy of the state concerning advertising by state agencies.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Declaration of Policy. It is hereby declared to be the

policy of the state that all purchases and placements of news media advertising by an agency or department of the state charged with raising revenue shall be done solely for the purpose of maximizing revenue to the agency or department and for no other purpose.

Sen. BRADLEY: The amendment should be on your desk. The amendment is a substitute for the original bill. The original bill dealt with only advertising by the Sweepstakes Commission. This bill makes a general policy for all state agencies who are involved with revenue raising and states that it is the policy that when they place and purchase news media advertising that this be done solely and for the purpose of maximizing revenue to the agency or department and not for other purposes. This bill arose out of what I consider to be a serious breach of the concept of a free press, where the Sweepstakes Commission had attempted to use its economic power of purchasing newspaper advertising for purposes other than revenue raising, which I consider to be entirely improper. The Sweepstakes Commission people came to the hearing and opposed the bill on the basis that basically they had made a mistake and this was not needed and this really was their policy. The committee felt the Sweepstakes Commission should not allow, in view of their position, that it was a good idea to make it clear to all state agencies that we should have such a policy on the books.

Sen. ROCK: Mr. President, I propose the amendment, and I oppose **SB 106**, and I think that the Senate should know that this bill could be more properly labeled "hit Al Rock bill." First of all, the bill is as a result of a greedy and despicable publisher who initiated action against one of the most respected and fine state employees we have. And this publisher went so far as to make the most serious allegation, that a state employee who served as a member of the Federal Bureau of Investigation, who has been above reproach during his entire term as a state employee, was bought out. I resented that accusation but I think you should know the context in which it was made. This cry baby greedy publisher who received over \$10,000 in advertising from the Sweepstakes Commission in the year 1976, who has a voluminous contract for further advertising from the Sweepstakes Commission for 1977, who has and still does receive advertising from the Sweepstakes Commission, picked up some competing newspapers one day and saw that his newspaper didn't get an ad from the

Sweepstakes Commission, so he initiated a call to the Sweepstakes Commission demanding to know why his newspaper didn't get that particular advertisement. Well, as a matter of fact, it was a very limited advertisement. It was placed in only four daily newspapers and three weekly newspapers in the entire state. You know there are several scores of newspapers in the state but because it had a limited budget and only limited exposure his newspaper wasn't included. Because he wasn't satisfied with the answer that he got, he made the charge, which to this day he has never denied, that the director of the Sweepstakes had been bought out by a member of this Senate and I resent that charge. That's a horrendous accusation and as a result of that accusation which was unfounded and unnecessary and uncalled for you've got **SB 106**. One single incident where when a publisher misused his authority and the power that he has as a publisher to make an accusation like that would spawn this kind of legislation to me is just disgusting. Mr. Powers, before that committee, [I sat through the hearing,] explained all of this, the taking of the Sweepstakes out of it and putting it before all the other bodies that use advertising in this state is certainly also unnecessary. I think that that commission has operated under Mr. Powers with the best interests of the state at heart, putting its advertising where it would do what it's intended to do and that's to bring the best result of the Sweepstakes Commission. There has been no other incident. There has been no other case, nothing else brought before the committee that would indicate other departments weren't doing the same thing. I'm sure that there are people who would like to see us handcuff some of these department heads with their hands behind them and a gun to their head and tell them how they should do every little piece of business they do. I'm not one of those people. I'm going to vote against the amendment and I'm going to vote against the bill and I hope that we all do so in the context that this bill was formed and to me it's just absolutely unnecessary.

Sen. TROWBRIDGE: Pardon my ignorance on this. Did I not read, not in the paper you're referring to, but in a broad general release that the Sweepstakes Commission answered a charge saying "Yes, sometimes we do and have put money in the papers to get their political support?"

Sen. TROWBRIDGE: This was not that long ago, Senator Rock. There was a thing saying sometimes we have placed Sweepstakes Commission. I'm hoping someone else is going

to be able to say yea.

Sen. ROCK: If that is the case, Senator, it doesn't make much sense to me and as a matter of fact I don't know that anybody can show where that is. I've never seen definitive proof that that has happened. I've certainly seen the Sweepstakes advertisements throughout the state in almost every newspaper that I've ever picked up. I hear them no matter where I travel. I don't believe that's a valid accusation. Obviously the decisions of the Sweepstakes advertising are made by consultations with their advertising agencies. They have two of them. They are based on circulation of the newspaper, on the effectiveness of the newspaper, on the effectiveness of a radio station. This bill was spawned by one single incident of a greedy publisher demanding why he didn't get an ad. That to me is no reason to have this legislation before us.

Sen. TROWBRIDGE: You have been in the forefront of saying "Hey, we make policy here and the department heads do not and if they have practices we don't like or even question we can make the policy." I think **SB 106** would be a policy statement. Is it not that whether you did it or not whether it's come up before, we're going to set down a policy saying you only do it on the basis of your effectiveness, which I take it you would have no objection to?

Sen. ROCK: Well, as a matter of fact, I was ready to get up earlier today, Senator, on another bill that I feel is in a good sense hamstringing a commission in a way that it should not be done and I didn't get up and say that but it was on my mind. I had it in my mind to do it. I think there is a level to which you can carry until it becomes ridiculous and if we are going to have the Governor and Council or this Senate sitting here with a list of radio stations in front of us to which ones you're going to pick out to advertise with, if you want to do that, go ahead. I don't want to.

Sen. TROWBRIDGE: Isn't that the point of **SB 106**? This legislature would make a policy statement which you've been in favor of, of saying no, you can only go at it on the effectiveness of the campaign. I see an inconsistency in your position here or maybe it's just because you're too close to this particular situation to be objective.

Sen. ROCK: Perhaps. But I only see one reason for **SB 106** and that's because somebody was a little ticked because they didn't get an ad and they made the charge which was an unfounded and despicable charge that a member of this Senate

bought out a state employee and the reward of \$1,000 was offered if that charge could be proved. It was never proved and there was no other basis in fact for **SB106** except that incident.

Sen. TROWBRIDGE: Perhaps Senator Bradley can answer my question. Somewhere along the line I read that there were some omissions here, not charge, but omission, have you got it?

Sen. BRADLEY: I think perhaps I know what you are referring to and I'm glad you have given me the opportunity to speak because I was about to rise under personal privilege. Senator Rock is absolutely wrong that the "to get Rock bill" all was spawned by what any publisher did or didn't do. This bill was spawned by two things which I read in the paper purely and simply. One was a letter from George A. Langley, Commissioner of the Sweepstakes Commission, to Mr. Loeb which was printed in that paper and which, among other things, said, I think this is what Senator Trowbridge is referring to, this is the part that brought me to my feet was his saying, this is Langley saying to William Loeb "unless Mr. Pickett apologizes to Mr. Powers for his bullish conduct, I intend to vote to withhold further Sweepstakes advertising to this paper." That's what set me off. Now he says, we have to persuade people to buy our tickets and newspapers should likewise persuade businesses about the merits of advertising in their editions. The implication is pretty clear to me in that one. The other thing was a story quoting Mr. Powers. I think knowledge is basically accurate that Mr. Powers said to Pickett "unless you apologize to me, I'm going to tell the commission to cut off all advertising to you." Mr. Powers may well be and probably is entitled to an apology. He may have a lawsuit for libel. I don't know. Maybe Al Rock has a lawsuit for libel and maybe he does. I take no position whatsoever and that's not the part that concerns me. This is where I think Senator Rock was missing my point. I feel badly that he has, because what I'm concerned about is the State of New Hampshire through an agency using its economic power to force a newspaper to do something. To force a newspaper to apologize or worse yet, the message here, unless you and your editions persuade people to buy our tickets you're not going to get our advertising. Now there is another juicy comment in here that I like but Mr. Bridges was asked to comment on it and his comment, which I think says a lot, was "You don't

feed a cancer." It seems to me the implication there is clear. If you don't like what a newspaper is saying you don't give them the advertising and that's just wrong. It's fundamentally wrong. I don't care what the merits were of this dispute between Mr. Powers and Pickett and this policy is sound policy. You don't use the economic power of the state that way.

Sen. DOWNING: Mr. President, I would like to rise in support of the amendment that's before the Senate now. I regret very much that Senator Rock is as sensitive as he is about this particular subject. I can only say the committee itself was sensitive about the original bill and they didn't feel that the Sweepstakes should be singled out and it's unfortunate that it had to be singled out in debate here today. It wasn't the intent of the committee, certainly. It just came to light that we should have an advertising policy relative to revenue producing departments and the use of their advertising money, which you all know is the intent of the legislature, why and how this money should be spent, and this is a policy. Even the title of the bill has been changed by the amendment. So there is no reference to Sweepstakes at all and it's just unfortunate that even had to come up today. I don't think it was necessary. It wasn't the intention of the committee certainly and I hope the Senate would look at it in that light and approve it accordingly. It's a policy for all the departments.

Sen. LAMONTAGNE: Mr. President, members of the Senate. I rise in opposition and the reason why I rise in opposition is because I personally don't feel that it is necessary to have this bill or the amendment. As far as the Sweepstakes and if anyone doesn't believe the words I'm going to say here before the Senate I have tapes that I can prove and produce to anyone of you who would like to listen. Tapes of the Sweepstakes happen to be myself and a person who has never been mentioned who deserved a lot of credit for the Sweepstakes being adopted and that was Senator Green from Manchester. We spent many, many nights to get the passage of the Sweepstakes so therefore I personally feel that as a strong supporter of the Sweepstakes that it is not necessary to turn around and restrict the commission or even the director into any aggreviance that they are having with a newspaper. This is nothing unusual. It's happened with other department heads. It's happened with other directors, so why not let them wash their own linen between the commission or the director and the newspaper. But I don't feel it's necessary to have this

bill on the books and the same time there is no need of us putting a handcuff on the commission or the director. I hope that you will vote against this bill.

Sen. BRADLEY: Senator, how do you feel that this amendment would handcuff anybody?

Sen. LAMONTAGNE: Senator, let me say this, I personally feel that this bill was not necessary. There was no need for it and if there wouldn't have been an article that you have just read in the news papers this bill would have never have been introduced.

Sen. BRADLEY: That wasn't my question. How is it going to handcuff anybody? You said it was going to handcuff some agencies. I want to know how it's going to handcuff them.

Sen. LAMONTAGNE: Because you're passing a law and therefore you are putting some regulations.

Sen. BRADLEY: And do I understand you would not want, to use your word, handcuff the agencies into following this kind of policy?

Sen. LAMONTAGNE: I personally feel that because of how this bill has been introduced that I'm against it.

Sen. TROWBRIDGE: I've been in the publishing business as long as anybody here and 'any time that you get a situation where the advertising policy and the editorial policy of any publication have to move together in order to get advertising it's called shilling, and I don't think any newspaper in this state wants to shill and it may have to be put on record that they've got to run pictures of the Sweepstakes. They've got to run every sort of release that comes from the Sweepstakes regardless its worth, or they're not going to get that advertising. We are asking the publishers what they try not to do with every other client. When somebody from Graponi Ford says, "Boy I have a wonderful story here about my new red truck." If the Concord Monitor or the Union Leader has to sit there and say I've got to run that story in order to get your advertising we are at a pretty low point. I think that if I were Ed Powers or anybody else I would welcome the fact that I had a state policy behind me which would say, look, you only put your dollars where they return, that's the way you spend you money and I frankly think, Senator Lamontagne, rather than handcuffing, I think this would be welcomed by anybody whose running a newspaper.

Sen. MONIER: I rise with a little reluctance. I'm not a publisher and I'm not involved with the Sweepstakes but I've lis-

tened to this carefully. I would feel better about voting for this bill if the original bill hadn't talked about the Sweepstakes as Senator Downing says it now does not. Secondly, I would have felt better about this bill if it had come up and there had never been an incident between Ed Powers and the Nashua Telegraph. I don't believe that either one of those facts are the reason. I think this bill is here because that incident did occur, and I see heads shaking, but I must say then I wonder why the bill hasn't been filed before. I do not agree that it would handcuff anybody. I agree with Senator Trowbridge that's not a good policy to have; but I don't think it's a good policy to now condone what that editor did do in terms of the attached on Ed Powers and that's exactly what you're saying. You're saying now that Ed Powers, you shouldn't have said that. I think you can do that in a letter if you want to but you're putting into law now that any editor that wants to can condemn anything that they want to say about us, about them, about any of our programs or about anything else to give any kind of response they want to give. My best answer to this is this ought to be postponed and not even brought up for another year and then there would be no accusations or any ties or strings attached to it. So on that basis I'm going to vote against it.

Division vote: 11 senators voted yea. 9 senators voted nay.

Amendment adopted.

Senator Lamontagne moved that **SB 106** be indefinitely postponed.

Senator Lamontagne requested a roll call. Seconded by Senator Downing.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Monier, Rock, McLaughlin, Sanborn, Provost, Brown.

The following senators voted nay: Smith, Bradley, Jacobson, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Downing, Preston, Foley.

10 yeas 11 nays

Motion failed.

Adopted. Ordered to third reading.

SB 160, prohibiting an on-sale permit and liquor license under certain conditions. Interim study. Senator Foley for the committee.

Sen. FOLEY: Mr. President, this bill prohibits the on-sale permit and liquor license under certain conditions and the conditions are that the store must be 300 feet from a church or any kind of religious organization or nonprofit. There was a lot of difficulty in understanding exactly what would happen if someone decided to sell a store and then the person who bought it be allowed the on-sale liquor license or would he have to go through a great deal of difficulty. There were other conditions that were questionable and we felt that under these conditions we should put it in interim study.

Adopted.

SB 252, relative to residential real estate exemption for persons totally disabled under the social security act. Interim study. Senator Keeney for the committee.

Sen. KEENEY: At the present time individuals who are totally and permanently disabled under some of our state laws have a way of asking for exemptions or receiving abatement. Those covered under this law would be people who are disabled under the federal social security act and, while the committee had a great deal of sympathy with the problem and was aware of the problem, no one appeared who could give us any statistic on how many people might be involved. It was for this reason that we asked for additional study and move that **SB 252** be sent to the committee for interim study.

Adopted.

SB 311, relative to prepayment of resident taxes. Interim study. Senator Downing for the committee.

Sen. DOWNING: Mr. President, on **SB 311**, everybody that was present at the hearing and there weren't many, say problems with this bill. There was one gentleman that came down

from Lebanon to testify on it admitted that there were problems with the bill and was hoping they could be straightened out and the president of the State Tax Collectors Association was present. Said he agreed with the concept in what they were trying to do but that it would be very necessary to prepare a lengthy amendment to straighten out and when asked if he could complete it within a few days time, he doubted it very much. So it appeared in the best interest of all the bill should go to interim study where we can follow up on the merits of it and try to get it straightened out for action at another time. I urge you support the committee report.

Adopted.

Senator Preston moved reconsideration of the action whereby **SB 174**, relative to placing a neglected child under the supervision of the director of the division of welfare, was passed.

Sen. PRESTON: Mr. President, sometime last week we acted on **SB174** relative to placing a neglected child under the supervision of the director of the Division of Welfare. Senator Bossie was not in the chamber and did not hear the entire debate on that bill and has some questions so as a courtesy to him I move reconsideration. I make this motion and urge my colleagues to vote yes.

Sen. BOSSIE: Mr. President, I want to thank Senator Preston for being so kind as to file notice for reconsideration because I wasn't able to be here during the entire debate on this bill and I did have great reservations about the bill and frankly things have been so hurried around here and all of us have had a number of bills in committees it was impossible to even attend hearings. The bill appears to add a word "supervision" as relating to the Division of Welfare and I would just question the necessity for this giving additional power to the director of Welfare. It gives him one more responsibility as opposed to reducing his involvement in certain cases. There is a question at least in my mind as to whether in the end this is going to cost us money. I think it will. In addition, the term supervision is left undefined as such and could cause confusion as to the Division of Welfares authority and power in such cases. I think the most important thing is that there has been no demonstrated need whatsoever to add a category such as this. I've asked everybody that I know about the bill

with the exception of Senator Gardner as to what this means and nobody seems to know and it's "just a little technicality bill." Well "technicality bills" scare me and for this reason I feel that it would be in our best interest to recind our action which was passing this bill and refer this to an interim study so we will know a little more about it.

Sen. GARDNER: I'd like to say the reason for this is that I was asked by the Welfare to introduce the bill and all it does is add "or supervision". The reason for this just changes two words. Under the present law when the child is neglected the court can given custody only of the child to the division and that is provided for under 169:7 in the supplement. **SB 174** eliminates this "all or nothing" situation. It gives the division a little ground. With supervision the division would not have the authority to move the children at will but would have the authority to go into the home and watch the home situation, thus protecting the child. Many times the division does not need custody of the child but rather it may facilitate better interfamily relationships if the division was given supervision. For example, in the case of a teenager who remains in his home, some teenagers would use the fact that the division have custody as a tool to manipulate the parents' controls over him. However, if the division received only supervision of the teenager there would be little confusion in his mind that the parent had control and authority over him. Another reason for the requesting of **SB 174** is that in order for the division to be entitled to use federal funds for the placement of the foster children there must be judicial determination. There would be no need for custody because supervision would be judicial determination and thus the division could receive federal funds. Finally, existing law, as mentioned above, requires that the division must receive custody of the child. This proceeding is sometimes unduly cruel to a parent who is neglectful. For example a parent may have a child who is extremely difficult to control because of emotional problems and the child may benefit from the placement in a treatment center, the cost of which the parent cannot afford. In order to receive federal money for this placement, the division must petition the court for custody and allege the child was neglected by a parent who in fact is not neglecting this child but rather is doing the best to provide care. Sometimes judges will not be aware of this and will unduly chastise the parent for neglecting his child. if **SB 174** became law and the division could receive supervision

some judges would hopefully recognize that a parent is not at fault and total control need not be removed from the parent. Thus the proceeding would more truly reflect the concept of doing what is in the best interest of the child without traumatizing the parent. Now under 167:7 re the custody of the child, it makes the parent or whoever the child is given to by the court responsible for the expense incurred by the child. If this law is passed and the welfare got supervision of the child they would get federal funds that they could use and these things are charged to the town, also.

Sen. BOSSIE: Senator Gardner, is it my understanding in light of the action taken by the Senate yesterday in which the Senate voted to not permit interference with ones children and what this bill will allow the director of welfare to come in and supervise your children so he or she will be able to come into your home and say you do this with your child or else you're going to be in trouble. Won't we be voting in an incongruous manner then if we allow this to go through, because we voted yesterday to not permit anyone from the outside to come in and interfere with our lives. We are going to allow some welfare director here to come in and say "you've got to do this, you've got to give your child birth control?"

Sen. GARDNER: No. They are just going to supervise and try to make the child and the parents or whomever they are having trouble with to work out conditions so that they won't have to take them away.

Sen. BOSSIE: Does that say that in the bill here, though? Where does it say the Welfare Department shall not meddle in our business? Where does it say they shall not do these things?

Sen. GARDNER: Supervision is going in and trying to help the parent and the child, too.

Division vote: 4 senators voted yea. 11 senators voted nay.
Motion failed.

ANNOUNCEMENTS

The Senate will meet at 11:00 a.m. on Thursday, May 5.
The Senate will meet at 1:00 p.m. on Friday, May 6.

INTRODUCTION OF SENATE BILLS

Senator Provost moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 358-360 shall be by this resolution read a first and second time by the therein listed titles laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 358, relative to the denial of an application for a credit card. (Preston of Dist. 23; Bossie of Dist. 20—To Energy and Consumer Affairs)

SB 359, relative to dental practice in New Hampshire. (Sag-
giotes of Dist. 8—To Public Institutions)

SB 360, relative to state payment for neglected children who are placed in certain kinds of foster care and making an appropriation therefor. (Bossie of Dist. 20; McLaughlin of Dist. 13; Rep. Roberts of Belknap Dist. 4; Rep. Wilson of Rockingham Dist. 2—To Finance)

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, May 5 at 11:00 a.m.

Adopted.

Late Session

Third Reading and Final Passage

SB 221, requiring the office of state planning to estimate annually the resident population of cities and towns within the state.

HB 668, authorizing the university system of New Hampshire to acquire fire, theft, and casualty insurance.

SB 242, relative to partnerships, associations and corporations holding an insurance agents license.

SB 158, relative to closing of state liquor stores on Christmas Eve and New Year's Eve.

SB 163, relative to the fee for the renewal of land surveyor's certificates of registration.

SB 220, requiring a mandatory jail sentence for any felony in which a deadly weapon is used.

SB 318, relative to alternative civil proceeding to declare material obscene and to terminate its dissemination.

SB 316, establishing a surrogate parent program in New Hampshire.

SB 145, relative to motor vehicle repair facilities.

SB 180, improving the manner of creating and maintaining condominiums and providing for full disclosure in condominium sales.

SB 153, relative to units of measure in the sale of wood.

SB 184, relative to the time involved for a final disposition of a neglected child and providing that the placement of a neglected child person in need of supervision or delinquent child shall not be at state expense.

SB 307, relative to deceased funeral directors.

SB 17, permitting nonprofit social clubs holding a liquor license to charge members and guests to cover entertainment costs.

SB 106, relative to the policy of the state concerning advertising by state agencies.

Adopted.

Senator Bradley moved reconsideration of the action whereby **SB 106**, relative to the policy of the state concerning advertising by state agencies, was ordered to third reading.

Motion failed.

Senator Downing moved reconsideration of the action whereby **SB 158**, relative to closing of state liquor stores on Christmas Eve and New Year's Eve, was ordered to third reading.

Motion failed.

Senator Poulsen moved to adjourn at 6:35 p.m.

Adopted.

Thursday, May 5

The Senate met at 11:00 a.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Father, we humbly offer ourselves to thee as thy servants, as Your Son Jesus Christ offered Himself without reservation for us. So may we in a like manner offer ourselves, our talents, all that we are or have in a reciprocal process for the elevation of our State and nation.

Be with us now Lord and while we are absent from each other that Thy spirit and bond of unity shall always persist among us.

Amen

Senator Downing led the Pledge of Allegiance.

COMMITTEE REPORTS

SB 285, relative to the accelerated Federal-Aid highway construction program. Ought to pass. Senator Sanborn for the committee.

Adopted. Ordered to third reading.

SB 253, relative to the examination, certification and registration of arborists and making an appropriation therefor. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to **SB 253**

Amend RSA 222:2 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

222:2 Arborist Board. The director of the division of forests

and lands, the commissioner of agriculture, the state entomologist, 2 licensed arborists, and a qualified plant pathologist shall constitute the arborist board. Said licensed arborists and plant pathologist shall each serve a 2 year term or until a successor is named. Said licensed arborists shall be appointed by the governor and council from a list of not more than 6 New Hampshire licensed arborists, submitted by the New Hampshire arborist association, or equivalent group. Said plant pathologist shall be appointed by the governor and council from a list of not more than 3 plant pathologists submitted by other members of the arborist board. The terms of the director of the division of forests and lands, the commissioner of agriculture and the state entomologist shall coincide with the terms of their respective offices. Board members shall not be entitled to compensation for their services but may receive reimbursement for their travel and other expenses while engaged in actual work of the board and shall be paid from monies appropriated for purposes of this chapter.

Amend RSA 222:4 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

222:4 Certificate and Proof of Financial Responsibility.

I. No person, firm or corporation shall advertise, solicit, or contract to improve the condition of fruit, shade or ornamental trees and shrubs by pruning, trimming, or filling cavities; protect such trees and shrubs from damage by insects or disease, either by spraying or any other method; or undertake tree trimming or removal along public rights-of-way and utility lines without having secured a certificate as provided in this chapter and shown proof of financial responsibility in amounts to be determined under regulations established by the board. An employee may perform labor or services on or in connection with trees at the direction and under the personal supervision of a licensed arborist. The removal of trees by ropes or a crane is included in the activities for which a certificate is required.

II. Nothing in this chapter shall prevent a person from improving or protecting trees and shrubs on his own premises or those of his employer without securing a certificate as an arborist.

III. Exempted from the requirements of this section are public employees while engaged in their regular line of duty;

qualified scientific specialists who are engaged in research or providing advisory services to licensed arborists; highway contractors, and public utility companies working under emergency conditions, and their employees in the removal of trees during the performance of contracts for the construction and maintenance of highways.

Amend RSA 222:8, II as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

II. Climbing irons or spurs may be used by registered arborists when climbing dead trees or live trees that are being removed. It is unlawful for any person other than the owner of the trees or his agent to use climbing irons or spurs on live shade or ornamental trees, except under emergency conditions, and then only as their use is authorized under rules prescribed by the arborist board.

Amend RSA 222:9 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

222:9 Enforcement. The arborist board shall be responsible for and shall arrange for the enforcement of the provisions of this chapter by using local and state police officers. The arborist board or these duly authorized agents may enter upon any public or private property which arborist work is being performed to inspect the work and may request the credentials of any or all employees to see that each is in the employ of a resident, registered New Hampshire arborist. If any corporation, firm, or person is in violation of this chapter or the rules and regulations of the arborist board, the board may, after opportunity for a hearing, revoke, suspend, or modify certificates or registration; or may in the name of the state, through the attorney general, apply in any court of competent jurisdiction for an order enjoining such violation or for an order enforcing compliance with this chapter and the rules and regulations of the board. Upon filing of a verified petition, the court upon certified affidavit that a person has violated this chapter, may issue a restraining order enjoining such violation. If it is established that such a person has violated or is violating this chapter, the court may enter a decree perpetually enjoining such violation or enforcing compliance with this chapter. In case of violation of any order or decree issued

under this section, the court may punish the offender for contempt of court. Proceedings pursuant to this section shall be in addition to, and not in lieu of, other remedies and penalties provided by this chapter.

Amend RSA 222:10 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

222:10 Fees.

I. A fee of \$5 shall accompany each application for examination for certification and shall not be returnable.

II. Upon successful qualification, the applicant shall submit an additional fee of \$15 to cover the initial certificate.

III. A fee of \$15 shall accompany a request for renewal of each certificate.

IV. A fee of \$2 shall be charged for the replacement of each lost certificate.

Sen. POULSEN: Mr. President the amendment is on page 19 of today's calendar and the amendment is essentially the bill. The original bill with the amendment changed the complete bill to the form the amendment is in now, indicates the people on the board of registration. It indicates financial responsibility and eliminates the necessity of every man in the crew being a licensed arborist. Just the company itself becomes licensed and it has nothing to do with people doing their own tree work or state municipal people doing tree work. It's a good bill.

Amendment adopted. Referred to Finance under Rule No. 24.

SB 179, increasing the state board of registration of funeral directors and embalmers from 5 to 6 members. Inexpedient to legislate. Senator McLaughlin for the committee.

(dead tape)

Adopted.

SB 308, including stairway inclined lifts and chair devices within the statutory definition of elevators. Ought to pass. Senator McLaughlin for the committee.

Sen. MCLAUGHLIN: Mr. President, **SB 308**, I believe, is trying to clarify the word elevators. It has been brought to our attention the word lifts and chair devices should be included with the word elevators for the elevator law. Places where there are lifts and chair devices they should be classified under the elevator law, therefore I recommend this bill pass at this time.

Adopted. Ordered to third reading.

SB 288, relative to nursing home administrators. Ought to pass. Senator McLaughlin for the committee.

Sen. MCLAUGHLIN: (dead tape)

Adopted. Ordered to third reading.

SB 232, relative to voting lists in the city of Manchester. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: (Dead tape continues) . . . we ask that the bill pass. The entire senate delegation from Manchester concurs. The board of Mayor Alderman requested it and we urge your approval. This would go on a referendum.

Adopted. Ordered to third reading.

SB 238, relative to waiving competitive bidding for the city of Manchester under certain conditions. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, the Manchester city charter provides that there shall be competitive bidding. Basically, what it says is that the lowest bidder under most circumstances will be awarded the bid. There has been a substantial problem with this practice since it's been in effect the last five years especially with regards to the acquisition of insurance. Quite often the city finds itself having only one bidder at an outrageous price. So they feel that they can do better if they could negotiate rather than having a bid in those instances. Also it is felt in certain areas that the sole bidder is unacceptable. They do not have the background with which to perform certain jobs and so it would be wise, and all of the Manchester delegation agrees, board of Mayor and Alderman agrees, City

Solicitor agrees, that the charter should be amended and presented to the voters to see if competitive bidding may be waived if 2/3 or eight members of the Board of Aldermen plus the Mayor all agree that it should be waived in certain instances. I don't think that this would have any negative effect on the openness of competitive bidding, which of course we encourage, because of the fact that it seems when there is a public offering the price seems to go up for some reason; but we don't want that. We think this would be a good bill

Sen. ROCK: In relation to the waiving of competitive bidding, would 2/3 of the Board of Aldermen and Mayor have to approve the waiving before or after the bids came in?

Sen. BOSSIE: Well, I think they could do it any time during the process. Even if a bid came in and there was only one and it was unacceptable they could turn it down and they could negotiate rather than reopening it . . . (dead tape) . . . in no way would this detract from the local businessmen who might seek business from the city. Sen. ROCK: If four people came in and the low bidder was a reputable businessman locally and his bid was considerably lower than the second lowest bid, which was also a reputable businessman who happened to know more of the eight members of the Board of Aldermen, could they waive that process and take the second lowest bidder?

Sen. BOSSIE: Although it is conceivable it is highly unlikely. Normally, they would be bound to accept the lowest bidder. The instances have it that quite often the lowest bidder is not entirely unacceptable and that is the problem. If you can deal locally and it's \$500 less then maybe you should consider this. It would effect only Manchester.

Adopted. Ordered to third reading.

SB 269, relative to school committee elections in the city of Manchester. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: The Manchester delegation unanimously agrees the matter of having a runoff election for the school committee should be presented to the voters to determine whether they want to runoff elections. In Manchester we have municipal elections in October of every odd year. If one runs

for the position of Mayor or Alderman it is on a partisan ballot. The primary in October, the election is in November. For the school committee it is nonpartisan and under this bill it would continue to be nonpartisan and what happens is in these school committee elections there is no runoff and so the entire group of candidates run against each other just in November which means if there are 10 candidates, it's conceivable . . . could be elected to that position. I think this is a very responsible position. I don't see where the school committee, because of the nonpartisan nature of it, would have any advantage over any other candidates. I think what would happen if there were more than 2 candidates for the position there would be a primary in which they would file at the same time as the alderman at the October election. The top two candidates on the nonpartisan ballot would be in the runoff election. This is a very good system, we feel, and we are surprised that it hasn't happened before. The only problem that the city presented to us is that we have voting machines and are concerned that the independents might not have a right to vote. As we know the independents certainly shrug any rights they have by failing to declare a party. By staying independent they don't participate in the electoral process. I don't think we should give overly great weight to them in this process. If all they want to do is elect the school committee at the November election we invite them to do it. If they are Democrat or Republican we don't care, if they want to vote for the school committee in the primary they should come in and vote in the October election. We urge its adoption.

Adopted. Ordered to third reading.

SB 231, relative to changing party affiliation in Manchester. Ought to pass with amendment. Senator Bossie for the committee.

Amendment to **SB 231**

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Application to Registrar of Voters. Any person whose name appears on the checklist of Manchester may apply in

person to the registrars of voters or their designee, for the purpose of changing his party affiliation. The registrars of voters shall have the power to examine such persons under the following conditions:

I. No application hereunder shall be accepted except between the day after any primary election and up to and including 21 days before the next primary election.

II. Such application shall be made during the regular office hours of the registrars of voters.

III. Said registrars of voters or their designee shall have the power to administer oaths to such applicants who appear before them and to exercise the powers of the supervisors of the checklist as applicable.

Amend the bill by striking out sections 2 and 5 and renumbering sections 3, 4, 6 and 7 to read as:

2 , 3, 4 and 5 respectively.

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Effective Date. Section 4 of this act shall take effect upon its passage. If the provisions of this act are adopted in accordance with section 4, sections 1 thru 3 shall take effect January 1, 1978.

Sen. BOSSIE: Mr. President, Senator Provost just whispered to me that history is being made in this chamber this morning. This will perhaps be the fourth bill of mine that will have passed unopposed. So I congratulate all of you and watch out for this bill. Mr. President, on **SB 231** the amendment is on page 13. This is a Manchester bill. It was requested by the registrar of voters, Senator Smith's friend, and she advises that this is necessary to correct the problems that currently exists. The amendment principally is a technical one. It provides that anyone who applies to change their parties must do so in person rather than writing. As the bill originally was it was in writing; now it must be in person. She requested this specifically because of the fact that there could be potential fraud such as in a divorce situation where one of the parties goes to change to the other party. This really is not that good and so what we would prefer to do is have them come in person. Other than that the amendment does very little. What the

bill does, as we know under current New Hampshire law provides that you can change your party from one to the other every, only during a 10 to 15 day period, every year. This is in June. What we propose is that in Manchester, because of the fact that we have the facilities to register voters everyday and our offices are open 52 weeks a year, 5 days a week, that we be permitted the privilege of allowing voters to change from one party to the other up to 21 days before any election. Although the rest of the state would stay the same we feel that this would be part of our own election reform. It was requested by the city of Manchester. All the city department heads agreed to it. All the Manchester delegation agrees to it and we urge your approval.

Amendment adopted. Ordered to third reading.

SB 255, relative to female lobsters. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This is a bill repealing requirement to mark female lobsters in the tail of the lobster. This is a very serious problem, Mr. President. This has been a custom since the 1800's. The purpose of it was that the egg bearing lobsters wouldn't be caught. The resources would not be depleted. Therefore it is considered an outmoded practice which is determined biologically 75% of the lobsters died and its recommended by the New England Fisheries commission.

Sen. MCLAUGHLIN: If you were not a lobster man how would you tell the the difference?

Sen. PRESTON: I'm going to show you that afterwards.

Adopted. Ordered to third reading.

SB 248, restricting the taking of alewives and live herring. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, this restricts the manner in which alewives and river herring are to be taken in certain rivers. Their resources are depleting, they are used as bait for the lobster fisherman and this again was recommended by the commission on fisheries.

Adopted. Ordered to third reading.

SB 257, relative to commercial salt water fishing. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill amends the commercial salt water fishing provisions by prescribing additional netting requirements in the manner of taking. It also provides for non-resident commercial fishing licenses of \$200 and a commercial license fee of \$25 for salt water fin fish and this was also recommended by the commissioner of the seashore fisheries.

Adopted. Ordered to third reading.

SB 185, relative to penalties for violation of fish and game offenses. Ought to pass with amendment. Senator Lamontagne for the committee.

Amendment to **SB 185**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to penalties for violation of fish and game offenses and repealing the taking of trout less than 6 inches in length.

Amend section 1 of the bill by striking out same and inserting in place thereof the following:

1 Repeal. RSA 211:2-c as inserted by 1977, 49:1, relative to the taking of trout which is less than 6 inches in length, is hereby repealed.

Amend section 3 of the bill by striking out same and inserting in place thereof the following:

3 Effective Date. This act shall take effect June 12, 1977.

Sen. LAMONTAGNE: Mr. President, members of the Senate, the amendment is the bill of **SB 185** and what it does is repeal HB 210. HB 210 is a six inch trout limit which passed just a few weeks ago. Before our committee we had many

people who appeared for the amendment now before you and it has been proven to the committee that a trout, especially up north, hasn't got a chance to grow any more than 6 inches because of lack of feed. Therefore, at the same time it is felt that with the original bill that some youngsters would be violating the law and it was felt to strike out the whole bill of 185 and substitute it with the proposed amendment. As I told you it is a repeal of HB 120.

Sen. BLAISDELL: Did all this come about, Senator, after we passed this bill did people come to you . . . ?

Sen. LAMONTAGNE: They didn't come to me. They came to the committee.

Sen. BLAISDELL: Would you repeat some of their testimony again?

Sen. LAMONTAGNE: I'd be glad to. There were many people who appeared in favor of the amendment that had been presented by Representative Dickinson and a lot of people in support of the amendment and the committee felt that because of the way it was explained before the committee of a trout limit of 6 inches and especially with the trout not going to be any trout would be less than 5 inches and it was proven to the committee that the hook going in deep and by taking the hook out and you throw the trout back in that that trout is going to die, therefore the majority of the people felt that it was best to take the six inch limit off.

Sen. BLAISDELL: Is the trout fishing up in the north country real good, Senator?

Sen. LAMONTAGNE: The fish are real small.

Sen. BLAISDELL: Wasn't there some concern that maybe we should let them grow for a change and not just be taking them out?

Sen. LAMONTAGNE: We had people that were experts who came before the committee and proved to the committee that the trout would not grow any more than 6 inches.

Sen. BLAISDELL: Are you saying you have no trout in the north country that are going to grow over 6 inches?

Sen. LAMONTAGNE: We have trout that have been stocked by the Fish and Game. But if you take native trout, it doesn't have a chance to grow over six inches.

Sen. POULSEN: Senator Preston, could you tell me what the vote of the committee was on this bill, on this amendment?

Sen. PRESTON: Essentially unanimous. In effect this repe-

als the action we took on HB 210 which would have made it illegal to possess trout under six inches.

Sen. POULSEN: Is it your intent to undo what you did the last time?

Sen. PRESTON: That's what we are doing.

Sen. BLAISDELL: Senator, did Trout Unlimited come in to testify on this bill?

Sen. PRESTON: Trout Unlimited did appear yesterday and they were convincing in their testimony that 75 to 90% of those trout that were hooked would be killed anyway. They also indicated that we were placing young people in jeopardy who would go out and get four or five inch trout and he said they would be violating the law. The testimony yesterday was overwhelming, with the exception of Rep. Huggins who still feels they should be over six inches.

Sen. LAMONTAGNE: Senator, do you realize that this amendment if adopted is going to make the fisherman honest?

Sen. BLAISDELL: Well, Senator Lamontagne, I disagree with you. I still think there are some young people that are concerned about having some trout in the pond and lakes in the next hundred years after we are gone and I think this was the reason partly I supported the bill and I would vote against this amendment.

Sen. LAMONTAGNE: Senator, are you aware that fishermen take a small fish and throw them in their boot?

Sen. BLAISDELL: No, I'm not aware of that. I think most fishermen are pretty honest. I can't speak for Berlin but in my area we are very honest people. Besides, I sell them very good boots.

Sen. POULSEN: Mr. President, I rise reluctantly in favor of the amendment. I was entirely in favor of the original bill which put a six inch limit on but I've had a lot of calls from fishermen who are now willing to negotiate to get smaller and smaller fish so long as they get numbers. Because of the pressure, I will vote for the amendment.

Division vote: 10 senators voted yea: 5 senators voted nay.
Amendment adopted. Ordered to third reading.

SB 178, relative to the taking of scallops. Referred to interim study. Senator Preston for the committee.

Sen. PRESTON: Mr. President, the committee referred this to interim study because the biologists now are currently determining the resources of the scallop harvest that's available out there. It's not a significant problem as the taking of scallop is mostly being done by scuba divers.

Adopted.

SB 310, which changes certain laws which refer to game animals, game birds, furbearers and fish to the general category of wildlife. Ought to pass with amendment. Senator Preston for the committee.

Amendment to **SB 310**

Amend RSA 207:1, X as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

X. Game Animals: Moose, caribou, elk, deer, wild rabbit, hare, bobcat and gray squirrel.

Sen. PRESTON: Mr. President **SB 310** changes certain laws which refers to game animals, game birds and so forth. The amendment merely strikes out the word bear. There is no special license for bear hunting. That's the extent of what the amendment does. The statutes are amended to reflect broad coverage of this subject by substituting of wildlife for various other references. So the amendment is not significant. The word bear had been put in there in error.

Amendment adopted. Ordered to third reading.

SB 198, restricting boating on Pow Wow River in Kingston. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill is sponsored by Senator Brown. It restricts motor boating on the Pow Wow river and a certain area near trickling falls to boats equipped with not more than 10 horsepower. This is a river only about 15 feet wide four to five feet deep and it's Jim Jones from the Fish and Game Department that consulted with Senator Brown on this and he endorses it.

Adopted. Ordered to third reading.

SB 309, providing for the stamping and sale of skins. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: **SB 109** provides a tagging fee of .25 for all fur bearing animals except muskrats. All the skins must be tagged within 10 days after the closing of the season. Because of the high prices now on all fur bearing animals that are caught there has been some finagling going on. This will give the Department of Fish and Game better management of fur bearers in the state. Evidently it was mentioned that some five thousand pelts had not been reported last year. This should give them better control. I must say there was some objection from a trapper that was there regarding the .25 fee.

Adopted. Ordered to third reading.

SB 256, relative to the reporting of lobster catch. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President this is one more method for the seashore fisheries to keep track of the lobsters being caught. I'm sure this will get more scrutiny when it goes into the house (dead tape) . . .

Adopted. Ordered to third reading.

SB 259, requiring permits for camp trip leaders. Referred to interim study for Interstate Cooperation. Senator Preston for the committee.

Sen. PRESTON: This bill would have required all camp trip leaders to acquire permits from water supply and pollution. The point is that Maine and Vermont might have conflicted in law and the sponsor agrees we should refer this to the interstate cooperation committee so that perhaps we can bring our laws so that they won't be in conflict.

Adopted.

Senator Blaisdell spoke under rule No. 44.

SB 105, relative to registration fees for foreign non-profit

corporations. Ought to pass with amendment. Senator Brown for the committee.

Amendment to SB 105

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Foreign Nonprofit Corporations; Registration. Amend RSA 292 by inserting after section 5-a the following new section:

292:5-b Foreign Nonprofit Corporations; Registration. Fees. A foreign nonprofit corporation established for any of the purposes set forth in RSA 292:1 or a substantially similar purpose, desiring to do business in this state in furtherance of such purpose for the benefit of citizens of this state, may register as a foreign corporation by making application as provided in RSA 300:4 and paying the fee provided in RSA 292:5. A foreign nonprofit corporation shall file the decennial return and pay the fee provided in RSA 292:25-29. A true and certified copy of the corporate charter shall be presented to the secretary of state by the registered agent upon demand and at no cost to the secretary of state. Failure to comply with such demand shall subject the corporation to the provisions of RSA 300:10-a.

Sen. BROWN: The amendment is on page 19. The amendment is the bill. Its a whole new bill. What its done is its added chapter to the existing statutes 292:5-b. Under the present laws foreign corporations charge \$150 for registering with the Secretary of State domestic fees of \$100. This allows nonprofit organizations along the border of our state to register for the same fee as domestic \$10. This bill was put in by Senator Bradley because I think its day care centers he's talking about in Vermont on the border next to his hometown of Hanover to deal with the children of Hanover and Lebanon. Its a nonprofit organization.

Amendment adopted. Ordered to third reading.

Senator Rock moved to take SB 277 from the table.
Adopted.

SB 277, amending the state industrial development act.
Senator Rock moved the following amendment:

Amendment to **SB 277**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

amending the state industrial development act and reclassifying a portion of Pennichuck brook.

Amend the bill by striking out all after section 8 and inserting in place thereof the following:

9 Reclassification of a Small Portion of Pennichuck Brook. Amend 1955, 25:1, II by striking out said paragraph and inserting in place thereof the following:

II. Pennichuck brook and all its tributaries and impoundments and all their tributaries, in the towns of Hollis, Milford, Amherst, Merrimack and the city of Nashua, from the outlet of Pennichuck pond to the Tinker road bridge over Bowers pond, class A.

II-a. Pennichuck brook and all its tributaries and impoundments and all their tributaries, in the town of Merrimack and the city of Nashua, from the Tinker road bridge over Bowers pond to the crest of the Supply pond dam, class B.

10 Limited Authority to Utilize the Merrimack River. The Pennichuck Water Works, Nashua, New Hampshire, is hereby authorized, in accordance with the provisions of RSA 148-A, to supplement its regular supply, the Pennichuck brook and its tributaries, by installing at a convenient point along the Merrimack River, upstream of the discharge from the town of Merrimack pollution control facility, the necessary water pumping and associated treatment facilities so as to periodically discharge to the Pennichuck brook at a point easterly of the Everett turnpike such quantities of Merrimack River water, up to a maximum of 15 million gallons a day, as may be needed to maintain a safe and adequate supply in the Pennichuck Water Works system. Nothing contained herein shall be construed to prevent or limit in any way the development of a regional water supply system to serve certain municipalities in the lower reaches of the Merrimack River

basin not necessarily limited to the municipalities of Merrimack, Hudson, Litchfield, Hollis, Pelham, Amherst or any village districts thereof.

11 Effective Date. This act shall take effect 60 days after its passage.

Sen. ROCK: I think we've heard most of the bill before. This bill is designed to allow the Pennichuck water works or water works in other communities to come under the Industrial Development Act for the state. This is a privately owned enterprised as other private enterprizes that apply to the industrial authority for the development money and it does meet the criteria of what other companies must do to be allowed to borrow under the IDA. Now this does not say they are mandated, it says that they may if that's the way they choose to go. Private water works were not included originally and it might mean that the water bills in Nashua would be some \$9 per year less if they are allowed to borrow this money because they can raise only so much money by selling stock and because of their debt limitations they can borrow so much money. Now what **SB 277** did was authorize the IDA to finance water supply facilities in addition to allowing them to finance industrial facilities and pollution control. It came to the attention of Senator McLaughlin and myself that the city of Nashua is going to be a very dry place in the next couple of years if we don't have some source to get additional water and one of the sources, the only source now remaining for the city of Nashua is the Merrimack River and I'm sure you gentlemen are all aware of the problems that we have with the Nashua River which originated in Massachusetts and takes the sewage from many Massachusetts communities such as Fitchburg and Leominster and dumps it into the Merrimack. While they are trying to clean that up its impractical to take water from below the Nashua River for its water supply and move north. The northward movement in the Merrimack is where the water would be above the sewage disposal of the Merrimack and this amendment that you have before you now lets the city of Nashua tap into the Merrimack River for its additional water supply. This bill will now go to the House and have a hearing before the House committee and people from those communities involved would like to see this bill approved. Number one allowing them to tap into the Merrimack River and number two, to allow them to finance

and if they desire through the Industrial Development Authority of the State of New Hampshire.

Amendment adopted. Ordered to third reading.

SB 116, requiring proof of financial responsibility for the operators of mopeds. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the Senate, this bill has been requested by the Motor Vehicle Department. This bill provides that operators of mopeds shall be under the New Hampshire financial responsibility law. The bill further specifies certain procedures to be followed in the event of accidents while operating a moped. Accidents resulting in death or injury to a person or property damage of \$300 or more are covered. Mopeds are any 2 wheeled or 3 wheeled pedal vehicle with an automatic transmission and a helper motor which is rated at no more than 2 brakes horsepower, has a cylinder capacity not exceeding 50 cubic centimeters and has a maximum cruising speed of less than 30 miles per hour on level ground.

Sen. ROCK: What does this change? (dead section in tape)

Sen. ROCK: Was it not the intention of the legislature when it passed the moped law originally Senator that it would be more like a bicycle than a motor cycle?

Sen. LAMONTAGNE: Well, I wouldn't think so, no. Because a moped is different, it is in the class of a motorcycle.

Sen. ROCK: Do you have to wear a helmet when you ride a moped?

Sen. LAMONTAGNE: No you don't.

Sen. ROCK: Do you have to wear a helmet when you ride a motorcycle?

Sen. LAMONTAGNE: Yes you do.

Sen. ROCK: Then Senator isn't this moving a moped more into the class of a motorcycle than a bicycle?

Sen. LAMONTAGNE: I can't answer that question.

Sen. ROCK: In looking at the bill Senator it also specifies that now mopeds are going to have to follow the same procedures as automobiles when they have an accident, isn't that true?

Sen. LAMONTAGNE: This is when you have an accident over \$300 or if death occurs.

Sen. SMITH: I rise in confusion Mr. President. Didn't we just pass a bill through here exempting mopeds? We passed a bill through here because under existing law for mopeds you have to have a motorcycle type license to operate them, I am confused.

Sen. POULSEN: Mr. President I rise in support of this motion. All it does is put mopeds under the financial responsibility law which was required because there were accidents as the highway department feared there would be, in which case financial responsibility would occur and it doesn't do anything to the classification of them. It doesn't make them a motorcycle or a camel or anything else.

Senator Bossie moved that **SB 116** be laid on the table.

Adopted.

SB 205, exempting certain motor vehicles and building equipment from public highway weight, height and width limitations. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this bill was put in at the request of the highway department who find that they do indeed have vehicles over weight and over width used for winter maintenance and that many towns also do. This bill will only legalize what is going on and what has been going on by the state and its own divisions, the towns and counties.

Sen. BRADLEY: Is this a kind of fat truck bill?

Sen. POULSEN: It is exactly the bill that I argued about. I said the state has been doing this for years the state finally admits that they have been doing it and finally legalizing themselves.

Sen. BRADLEY: And this applies only to state?

Sen. POULSEN: State owned, municipal and only for winter maintenance. It doesn't give them the right for construction equipment or anything else.

Sen. BRADLEY: So we exempt them from these limitations are there any limitations that apply to this snow removal stuff?

Sen. POULSEN: None that I know of. It exempts them from it so apparently a snow plow can be 22 feet wide.

Adopted. Ordered to third reading.

SB 223, relative to the winter maintenance of Diamond Pond road in the towns of Colebrook and Stewartstown. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this bill only increases the amount the state pays the towns in Colebrook and Stewartstown for the maintenance of a road. It increases it from \$500 to \$1000 a mile. I think it is four miles long.

Sen. BOSSIE: Senator it appears that what we are going to do is be further subsidizing the towns that are maintaining roads is that correct?

Sen. POULSEN: Yes. It is often cheaper for the state to pay for it than do it themselves.

Sen. BOSSIE: Senator if we are to look so kindly upon this sort of thing why should not say the town of Plymouth get some more money for theirs and the city of Manchester a couple million dollars to help them run theirs?

Sen. POULSEN: Is there anything wrong with theirs? Senator, the state already pays. State maintains state roads it pays itself to maintain them and in some cases cheaper for the state to use the town to maintain them then to do it themselves. Its a payment in lieu of doing the job.

Adopted. Ordered to third reading.

SB 246, requiring rear wheel drive motor vehicles to be equipped with snow tires. Majority report—Ought to pass with amendment (Sens. Gardner, Lamontagne, Healy, for the majority) Inexpedient to legislate (Sens. Poulsen, Fennelly for the minority).

Senator Lamontagne moved that **SB 246** be laid on the table.

Adopted.

SB 271, exempting certain governmental entities from the payment of motor vehicle road tolls. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the Senate, under the present law many cities, towns, county farms, and school districts that uses more fuel in its own motor vehicles may apply for and receive a refund from the road toll paid on each gallon of motor fuel. This bill exempts from the payment of road tolls any motor vehicle that purchases motor fuel, if bought by the cities, towns, county farm, school district or village district, from a distributor. If motor fuel is purchased from a retail dealer by cities, towns, county farms, school districts or village districts then those governmental entities are entitled to the road toll refunds to be extended the amount of the road toll so paid. The public works department appeared in favor of this bill and at the same time they figured this bill would save a lot of paper work for the cities and towns. That is the purpose of the introduction of this bill.

Sen. SANBORN: Mr. President, members of the Senate, as Senator Lamontagne has already stated **SB 271** is in effect not one so much to save money or anything like that but it is going to save a great deal of paper work in the various communities, and in the State itself, where the State such as the Highway Department has to take money out of one pocket and in effect put it in another pocket, because they have to at present pay the state tax on fuel on their vehicles and then turn around and apply for a refund. All it does, it cuts out all that excess paperwork that isn't needed.

Sen. TROWBRIDGE: I think it should go on record that there is no question that there will be less revenue to the State because of this bill because a great many of the school districts forget to file for their refund. I think it's right that we should give the refund. I think we ought to recognize that the Highway Department estimates that about half of the eligible refunds are actually filed for.

Adopted. Ordered to third reading.

SB 272, requiring notification of the owners of certain abandoned motor vehicles. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the Senate, this bill requires any inspector of the Department of Safety, State Police employees, police officers, County Sher-

riffs, deputy sheriff or selectmen who orders a motor vehicle taken away and stored to notify the owner of that vehicle why it was taken away and stored and where it may be reclaimed. This notification must take place within 48 hours, unless ownership cannot be determined in that time period. Mr. President, we have had a Mr. Malcolm Yorks who appeared before our committee and had proven to us that he had a motorcycle that was worth about \$500 and somehow somebody took the motorcycle. It was proven to us that the motorcycle had been found, and then the Police Department took a long time to notify the owner. In the meantime the Police Department placed the motorcycle into a storage and therefor the rental went as high as \$300. At the same time the owner had only been notified two days and there was the rental for space which amounted to over \$300. What this will do, just as I've explained to you, that these different individuals, the police officers, that they will have to notify the title bureau. Its only fair that the title bureau which is responsible for stolen vehicles for them to be notified by any police department so that the owner can be notified. The title bureau has the owner's address. It had the serial number of the motor vehicle. It was really unjust for this individual that the laws of the title bill didn't read as it is proposed to you today. Therefore, I urge you to adopt **SB 272**.

Adopted. Ordered to third reading.

SB 19, permitting the gross weight on the interstate highway system as authorized by the Federal Aid Highway Amendments of 1974. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: This bill permits motor vehicle to be operated on the interstate highway system with a gross weight not to exceed the gross weight as authorized by Public Law 93-463, the Federal Aid Highway Amendments of 1974 and this act has been adopted by 44 states.

Senator Downing moved to indefinitely postpone **SB 19**.

Sen. DOWNING: Mr. President, this is just a subject that keeps coming up in this chamber periodically and its nothing further than an expansion of fat and heavy trucks on the road,

to have them running all over the State and damaging the roads and we don't need it. I think the earlier we get rid of it the better off the State will be.

Sen. ROCK: Senator, you made the comment that they have been running all over the State. I've wondered if you've had an opportunity to read the bill?

Sen. DOWNING: I don't have it here, Senator, but the subject I'm familiar with.

Sen. ROCK: Could I call your attention to the bill page roman numeral 15 which states, "notwithstanding any other provision of this section or any other law to the contrary, vehicles operating on the interstate highway system only" and with that connotation do you still feel they are running all over the State?

Sen. DOWNING: Absolutely, Senator. They have to get on that highway and they have to get off that highway and I don't know any truck terminal that's built on the interstate highway with direct access.

Sen. ROCK: Would it not be possible, Senator, for a truck coming with a load of potatoes from Maine to get on that highway system and to move through New Hampshire down into Massachusetts without getting off that highway and meet the specifications in XV of this bill?

Sen. DOWNING: It would be possible, Senator, but it would also be possible for that truck to come off the highway if we authorize it to operate on there. And if you take the whole statutory area into consideration, not just this segment of it, if you authorize this, you will authorize them to go other places in the state if their main travel is on the interstate highway.

Sen. ROCK: If the truck got on the interstate highway at Kittery and got off at Seabrook would he then not be in compliance with the statute, and further if he got off at Hampton or at Portsmouth would he not be breaking the law and subject to penalty?

Sen. DOWNING: I don't believe he would be breaking the law in the total context of the law, Senator.

Sen. TROWBRIDGE: Senator Downing, is it your understanding that really what happened in the State of Maine through some legislative action adopted a higher weight system than New Hampshire and that the real purpose of this is to allow the big trucks from Maine to come into New Hampshire?

Sen. DOWNING: There is no question about that, Senator.

They lobbying effort is tremendous. They finally won Congress over. Congress threw this out year after year finally they won them over, now they come into the State saying the federal government did it, you have to do it. Some legislatures are buying it and I don't think New Hampshire should.

Sen. TROWBRIDGE: In line with that we now have, our present weight limit, have you heard of any New Hampshire trucker who really does his major business in this State who feels restricted by our weight limit?

Sen. DOWNING: No, Senator, none.

Sen. TROWBRIDGE: Have you gotten any calls from a New Hampshire type person?

Sen. DOWNING: Not a single one, Senator.

Sen. TROWBRIDGE: Would you believe that I haven't either. I have from Maine.

Sen. BRADLEY: Senator, can you tell us how big or how much bigger this is going to allow a truck to be?

Sen. LAMONTAGNE: Right now the present law is 73,480 lbs. and this would mean 80,000 but on interstate only.

Sen. BRADLEY: Senator, if we adopt this bill the way it is, doesn't this open the door to allow the federal government to dictate to us the future as long as we have this law on the books what our weight limits are going to be on the interstates.

Sen. LAMONTAGNE: It would go according to the states whether they adopt. Right now already 44 states have adopted it.

Sen. BRADLEY: As long as we have a law like this that our weights will be whatever the federal law is. That really gives Congress the power to say next year it's going to be 90 and the next year it's going to be 95 and that's what it's going to be for New Hampshire.

Sen. LAMONTAGNE: Definitely not, Senator. This here if it goes beyond 80,000 lb. it must come back to the General Court to be approved for the interstates of New Hampshire. Now what this bill says is that we are adopting the Federal Act of 1974 which is 80,000 pounds.

Sen. BRADLEY: My concern is that the Federal Highway Act of 1974, itself, can be amended by Congress and if your intent is only to increase the weight to 80,000 why don't we just say 80,000 for interstate highways in the bill?

Sen. LAMONTAGNE: If you look into the section 93-463, it spells out 80,000 pounds. It's already in that law.

Sen. SANBORN: Senator, you speak of public law 93-463 giving the weight, but doesn't it also have a table that you have to have a certain number of axles under the thing?

Sen. LAMONTAGNE: Very good point, Senator. This has to be on five axles. You can't have 80,000 on four axles. You've got to have five axles in order to be able to have the 80,000 on the interstate highway, and besides that the Public Works Commissioner, John Clement, appeared in favor. Mr. Langly from the Bridge Engineers also appeared in favor of the bill.

Sen. SANBORN: In other words, Senator, there is no chance that we would catch a three wheel moped going up the highway with this weight on it?

Sen. LAMONTAGNE: No way at all. Sen. POULSEN: Mr. President, I rise in opposition to the motion to make this indefinitely postponed. The federal highway system is built all over the country, and it has been judged and evaluated by its own engineers. It's well proven to them that 80,000 is not an exorbitant load to carry. It's only on that road we are talking about. Our own trucks are losing money in not being able to register in New Hampshire because they can't get the registration for an 80,000 pound load that they use anywhere else in the country. They have to register for 72,000. We are losing money, I don't know how much. It's foolish not to pass this we are hurting ourselves, not anyone else, and we certainly are not doing anything by not passing this legislation.

Sen. ROCK: Mr. President, I'd like to speak in answer to a line of thought that was developed during the interrogatory as to whether or not anybody had been contacted by anybody locally, and I suppose that as we watch the efforts of Mr. Connolly of AAA, I can answer that question. I can answer it in two areas. I can answer it in the small business man and I can answer it in the category of a very large business man. I'd like to talk first about the large business man, who has several hundreds of employees in my community. The name of the company is Blue Line Express. Blue Line Express has been operated out of Nashua for many many years, and it's one of the large trucking companies in the State of New Hampshire. They have fully owned affiliates in other states and they are facing a real hardship with this problem now, because they deal with customers who want to move freight through and in and out of New Hampshire on these interstates. They have customers in Maine and Massachusetts, and they sit here in the middle paying a very very large property tax in Nashua employing hun-

dreds of people and faced with the problem of perhaps someday having to move out of Nashua and into Massachusetts where they can license these trucks in New Hampshire. Now, although they can carry the loads in other states, they can't license their trucks in New Hampshire, so they are losing business. Example of big business. Example of small business, a one man business, one guy invested \$40,000 in a cab, the front part of a truck, and he hires himself out pulling loads from one place to the other. He lives in Nashua. His name is Gerry Miller, he is a constituent of mine. He called me on this. He said I'm faced with a problem that I can't compete. I take a load from Nashua and haul it down to Florida, I get down there and I get in line to find a load to come back, and I get bypassed time and time again because I can't take the load that the other guys behind me can take, because they can register their trucks. This guy isn't going to drive this load in New Hampshire. He can't haul because his truck isn't licensed for it and he can't license it for it, because he lives in Nashua. Yes, I have had businessmen and constituents of mine call me in regard to this bill. I'm very comfortable with it. We are not going to be driving up and down the drive that I live on. But I certainly don't mind if he passes me on the turnpike, on that beautiful eight lane highway between Kittery and Seabrook.

Sen. BLAISDELL: Being a small business man myself, Senator Rock, and having some of these people back up into my store, have any of these truckers ever told you they are scared stiff that they can't stop them at 73,000 lbs.? They don't know what they would do at 80,000?

Sen. ROCK: No. I've never heard that said but I do understand that as of now without the proper breaking that this would require and the accident you can have 73,000 pounds on two axels loaded with gravel that they never stop and this would correct some of that.

Sen. BLAISDELL: Would you be surprised that the truckers have told me that, that they are scared stiff that they can't stop them even with the new thing?

Sen. ROCK: I believe you, Senator, because you are a true Senator. But I'm surprised.

Sen. McLAUGHLIN: I rise in opposition to the present motion that's on the floor. I realize I'm in the trucking business, I gross my trucks out of 55,000 pounds, so it has no bearing upon

this bill whatsoever. I'd like to clarify a few things that have been said here this morning. There are 44 states in the United States at the present time that have this law on the books for certain roads. The most significant thing is, Senator Rock spoke about Blue Line Express, companies of this nature have terminals in the State of Maine, Massachusetts, Rhode Island, Connecticut, and so forth what they are doing in essence is which is very legal—the equipment for 80,000 pounds out of Portland, Maine or Boston, Massachusetts so that state is a home base state, where that tractor is coming out of. So that state is getting a terrific amount of money in New Hampshire, 60 cents per hundred weight, so it would be \$480 for that tractor to be registered in the State of New Hampshire. I cannot tell you what the fee is in Maine. However, what they are doing is not registering those tractors in New Hampshire any more, because they can travel in New Hampshire for 72,300 pounds and therefore are going to Maine as the home base and registering it up there. So all the money goes there. Now in turn under the National Reciprocal Agreement Act, transportation can go to other states, with the agreement, if you have ICC authority and so forth, and it will cost you anywhere from \$5 to \$50 per state in the United States. I think the important part here is not going to Keene or Nashua, it's crossing through our state line into Kittery, Maine. The important part is the amount of money in revenue that we are losing. This will help the revenue in our state and satisfy some truckers who have their home base in New Hampshire. Under this thing, if it doesn't change very soon they are going to leave New Hampshire because of the property taxes because these guys don't need New Hampshire for home base. We are not a large shipper. We in New Hampshire don't ship out that much freight, a lot more comes into it than goes out. So if they transfer their location to Portland, Maine or Massachusetts, we are going to lose the trucking companies and the property taxes they are paying. It doesn't affect me at all because I don't have this kind of weight. I'm just trying to clarify we are losing money.

Senator Fennelly moved the previous question.
Adopted.

Senator Bossie requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Smith, Bradley, Jacobson, Saggiotes, Blaisdell, Trowbridge, Hancock, Bossie, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Lamontagne, Poulsen, Gardner, Monier, Rock, McLaughlin, Keeney, Healy, Sanborn, Provost, Brown.

12 yeas 11 nays

Adopted.

Recess.

Out of Recess.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Provost moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills, 846, 688, 859, 947, 881, 936, 686, 687, 938, 1024, 1031, 1032, 1033, 235, 776, 777, 1050, 711, 869, 943, 1003, 836, 941, 1119, 802, 1015, 313, 816, 906, 916, 1156, 1078, 892, 1074, 1021, 787, 653, 681, 734, 795, 905, 903, 597, 621, shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 869, clarifying the priority of claims against insolvent insurance companies. To Insurance.

HB 943, relative to the crime of exposing minors to harmful materials. To Judiciary.

HB 1003, relative to union school district in Nashua. To Education.

HB 836, relative to taxation of residence in industrial or commercial zones. To Executive Departments.

HB 941, permitting an appeal from the granting of a license to operate a motor vehicle junk yard. To Executive Departments.

HB 1119, relative to strip development along highways. To Transportation.

HB 802, relative to the system of birth registration. To Administrative Affairs.

HB 1015, relative to the liability of veterinary board and engineers board. To Executive Departments.

HB 313, prescribing the manner of posting land and providing a penalty for trespassing on posted land. To Environment.

HB 816, relative to requiring a public hearing prior to reclamation of any pond by the fish and game department. To Environment.

HB 906, relative to the appointment and qualifications of the fish and game commission and providing for the appointment and removal of the executive director of the fish and game department. To Executive Departments.

HB 916, permitting planning boards to require a subdivider to install prescribed traffic control devices. To Executive Departments.

HB 1156, relative to the property tax lien for the elderly and disabled. To Ways and Means.

HB 1078, relative to the establishment of a permanent subcommittee on architectural barrier free design on the governor's committee on employment of the handicapped. To Executive Departments.

HB 892, relative to temporary transfer of prisoners. To Judiciary.

HB 1074, requiring planning board findings, conclusions and decisions to be prepared in written form. To Executive Departments.

HB 1021, requiring the filing of relinquishments with the department of health and welfare. To Public Institutions.

HB 787, relative to mental health evaluations of minors before the juvenile court. To Judiciary.

HB 653, imposing a deadline for the adoption of a county budget and requiring the signatures of the chairman and clerk of the county convention for filing the adopted budget. To Executive Departments.

HB 681, relative to the disposition of municipal records. To Executive Departments.

HB 734, relative to taxing radio and television towers. To Ways and Means.

HB 795, permitting a county to borrow money in anticipation of federal or state aid or both. To Executive Departments.

HB 905, relative to the licensing of businesses in a town. To Executive Departments.

HB 903, permitting the legislative body of any city or town to regulate and control the timing of all types of development. To Executive Departments.

HB 597, relative to the application and expenditure of federal funds and making an appropriation therefor. To Administrative Affairs.

HB 621, relative to the placement of children in licensed facilities. To Public Institutions.

HB 846, amending the city charter of Nashua relative to the election of the board of education. To Cities.

HB 688, relative to trust company director's stock holdings. To Banks.

HB 859, relative to prohibited collateral under the small loans law. To Banks.

HB 947, relative to guaranty funds of building and loan associations. To Banks.

HB 881, relative to the recovery of local assistance. To Executive Departments.

HB 936, relative to the good samaritan law. To Judiciary.

HB 686, relative to the duties of persons involved with vital statistics. To Administrative Affairs.

HB 687, amending certain statutes relative to vital statistics. To Administrative Affairs.

HB 938, allowing permits for child care facilities. To Public Institutions.

HB 1024, applying the settlement law to municipal contributions for old age assistance and aid to the permanently and totally disabled. To Finance.

HB 1031, to allow local units of government to enter local agreements for the performance of any legal municipal function. To Executive Departments.

HB 1032, relative to the Saco water shed commission. To Environment.

HB 1033, relative to the exchange of tax information between state and federal government. To Ways and Means.

HB 235, to permit stolen and other property to be restored to rightful owners in advance of trial or appeal. To Judiciary.

HB 776, relative to the definition of a person beneficially interested in an account filed in probate court. To Judiciary.

HB 777, relative to unfair, deceptive or unreasonable collection practices. To Judiciary.

HB 1050, establishing a committee to study legislation affecting municipalities. To Executive Departments.

HB 711, eliminating the requirement that townclerks send reports to certain state societies. To Executive Departments.

INTRODUCTION OF SENATE BILLS

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills 361-367 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 361, establishing the New Hampshire civic and sports facilities authority as a body politic and corporate for the purpose of acquiring, constructing, furnishing, equipping, owning, improving, operating, maintaining and financing civic and sports facilities complexes, and making an appropriation therefor. (Sanborn of Dist. 17—To Capital Budget and Finance (Joint))

SB 362, making the university of New Hampshire a private university and establishing a state student incentive grant program and making an appropriation therefor. (Jacobson of Dist. 7—To Education and Finance (Joint))

SB 363, revising guardianship procedures. (Smith of Dist. 3; Rep. Roberts of Belknap Dist. 4—To Judiciary)

SB 364, relative to training in osteopathic medicine and making an appropriation therefor. (Saggiotes of Dist. 8; Rep.

Boucher of Merrimack Dist. 6; Rep. Spirou of Hillsborough Dist. 27—To Public Institutions and Finance (Joint))

SB 365, establishing a police and fire academy and making an appropriation therefor. (Sanborn of Dist. 17; Rep. Packard of Merrimack Dist. 4; Rep. Boucher of Merrimack Dist. 6—To Capital Budget and Finance (Joint))

SB 366, establishing a 5 member oversight committee to recodify the election laws and making an appropriation therefor. (Bossie of Dist. 20; Sanborn of Dist. 17; Monier of Dist. 9—To Executive Departments, Municipal and County Government)

SB 367, relative to selling sporting event lists by the sweepstakes commission and making an appropriation therefor. (Bossie of Dist. 20; Sanborn of Dist. 17; Downing of Dist. 22; Brown of Dist. 19—To Ways and Means)

COMMITTEE REPORT

SB 283, relative to motor vehicles declared to be totally damaged. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, under this bill a vehicle that had been totaled by an insurance adjuster, in other words declared to be a total wreck, this makes it mandatory that the title and registration of that car be submitted, turned into the State, so that the vehicle actually loses its identity at that point. Then if it's rebuilt by a dealer it is issued a new title which distinguishes that, so if you buy a car that's been totaled and rebuilt you will very well know it by its title. It's a consumer protection bill and a very good one.

Adopted. Ordered to third reading.

SB 226, relative to credit life insurance and credit accident and health insurance. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to **SB 226**

Amend RSA 408-A:2, (2) as inserted by section 1 of the bill, by striking out same and inserting in place thereof the following:

(2) All life insurance and all accident and health insurance sold in connection with loans or other credit transactions shall be subject to the provisions of this chapter, except such insurance sold in connection with a loan or other credit transaction of more than 15 years' duration; and except such insurance sold in connection with a first real estate mortgage; provided however, that such insurance sold in connection with a first real estate mortgage on a new or used mobile home or dwelling trailer shall be subject to the provisions of this chapter regardless of the duration of the underlying loan or other credit transaction.

Sen. POULSEN: Mr. President, the amendment is one suggested by the Commissioner of Insurance and it strengthens the wording in the original bill.

Amendment adopted. Ordered to third reading.

SB 227, relative to the expiration dates of licenses granted to insurance companies, agents and adjusters. Ought to pass with amendment. Senator Bergeron for the committee.

Amendment to **SB 227**

Amend the bill by striking out all after section 8 and inserting in place thereof the following:

9 Expiration of Licenses Granted to Insurance Rating Organizations. Amend RSA 413:1 (a) (supp) as amended by striking out said paragraph and inserting in place thereof the following:

(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of casualty insurance or subdivisions thereof, or for such kinds of fire, marine and inland marine insurance or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this

state upon whom notices or orders of the commissioner or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy, and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within 60 days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for one year unless sooner suspended, or revoked by the commissioner. The fee for said application and license shall be as specified in RSA 400-A:29. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the commissioner promptly of every change in (1) its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business, (2) its list of members and subscribers and (3) the name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

10 Applicability. The amendments contained in this act shall apply to every license or renewal thereof issued to an agent of a non-profit health corporation in accordance with RSA 420-A:5, to an agent of any hospital services corporation in accordance with RSA 419:4, to an agent of a medical services corporation in accordance with RSA 420:4, to an insurance company in accordance with RSA 402:12, to an insurance agent in accordance with RSA 402:16, to a foreign insurance company in accordance with RSA 405:12, to an insurance claims adjuster in accordance with RSA 402-B:7, to a public adjuster in accordance with RSA 402-D:4, and to an insurance rating organization in accordance with RSA 413-1 (a), which is in effect in this state on the effective date of this act.

11 Effective Date. This act shall take effect 60 days after its passage.

Sen. BERGERON: Mr. President, the only thing this bill does is to conform different expiration of licensing into one central date bringing us into conformity with current operation procedures. The amendment is nothing more than brings in various insurance rather organizations now licensed every three years and this amendment will take care of them if they are licensed every year.

Amendment adopted. Ordered to third reading.

SB 274, relative to licensing insurance appraisers. Ought to pass with amendment. Senator Bergeron for the committee.

Amendment to **SB 274**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to licensing automobile insurance appraisers.

Amend the bill by striking out sections 1 and 2 and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 402-D the following new chapter:

CHAPTER 402-E

Automobile Insurance Appraisers

402-E:1 Definition. In this chapter, "automobile insurance appraiser" shall mean a person who appraises automobile insurance losses.

402-E:2 License Requirement. No person shall act as or hold himself out to be an automobile insurance appraiser until a license therefor has been issued to him by the commissioner, except that no license shall be required of an attorney licensed to practice law in this state acting in his professional capacity, nor of a licensed insurance agent or licensed insur-

ance broker dealing with a claimant in conjunction with his other duties.

402-E:3 Application and Examinations:

I. An individual may apply for an automobile insurance appraiser license by submitting to the commissioner a properly completed form prescribed by the commissioner.

II. Within a reasonable time after receiving such form, the commissioner shall administer a written examination to the applicant. The commissioner may conduct investigations concerning the applicant's qualifications, residence, business affiliations and any other matter which he deems necessary or advisable to determine satisfaction of the requirements specified in RSA 402-E:4.

402-E:4 Issuance of License. The commissioner shall issue an automobile insurance appraiser license to any applicant who:

I. Passes all examinations required by the commissioner under RSA 402-E:3;

II. Is trustworthy and financially responsible and has good personal and business reputations;

III. Pays all fees required by him by this title;

IV. Is 18 years of age or older;

V. Is a resident of this state or a resident of another state granting similar licenses to residents of this state; and

VI. Possesses a minimum of 2 years' experience in the insurance business, with involvement in insurance loss appraising or other experience considered sufficient by the commissioner.

402-E:5 Non-Resident Examinations. A non-resident may be licensed at the discretion of the commissioner without taking a written examination, if the commissioner of the state of the applicant's residence certifies that the applicant has passed a comparable written examination or has been a continuous holder, prior to the time the written examination was required, of an automobile insurance appraiser's license in that state.

402-E:6 Rules and Regulations. The commissioner may make reasonable rules and regulations necessary to effect the purposes of this chapter.

402-E:7 Expiration. Unless revoked by the commissioner, the license and any renewal thereof shall expire on June 15 of the second calendar year after its issue.

402-E:8 Revocation. The commissioner may, at any time

after the granting of the license, for violation of any provision of this title or for other cause shown, and after notice and hearing, determine the licensee to be unsuitable to act as an automobile insurance appraiser, and shall thereupon revoke the license and notify the automobile insurance appraiser of such revocation.

402-E:9 Penalty. Any person who shall act within this state as an automobile insurance appraiser without being licensed as herein provided, or any licensee who in the course of his work as an automobile insurance appraiser shall misrepresent his identity or the identity of his principal or employer, or who shall wrongfully divulge information coming to him in his capacity as an automobile insurance appraiser may be subjected to an administrative fine not to exceed \$2,500.

2 Fees for Automobile Insurance Appraiser License. Amend RSA 400-A:29 by inserting after paragraph XV the following new paragraph:

XV-a. Automobile Insurance Appraiser's Licenses.

(a) Application Fee	\$15
(b) Initial License	\$20
(c) Biennial Renewal	\$20

Sen. BERGERON: Mr. President, this bill requires insurance appraisers be licensed. When we had our hearing it was brought up in testimony that this included all appraisers. It could be your local jeweler who would appraise a diamond ring. The intent of the original bill was to deal with problems that we have had in the automobile appraising field only. This amendment restricts it to automobile appraisers. It's a housekeeping bill.

Amendment adopted. Ordered to third reading.

SB 276, concerning the penalties for using unapproved insurance policy forms. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to **SB 276**

Amend RSA 412:4, as inserted by section 2 of the bill, by striking out same and inserting in place thereof the following:

412:4 Penalty. If any insurer shall issue any policy in viola-

tion of the provisions of this chapter, or any policy which it has been forbidden to issue by the commissioner under the provisions hereof, the commissioner may, upon hearing, suspend or revoke said insurer's certificate of authority or license for a period not to exceed 3 years, impose an administrative fine in lieu of such suspension or revocation, or take such other administrative action against the offending company as the commissioner, in his discretion, may determine. The commissioner shall not be bound by the limitations on penalty contained in RSA 400-A:15, III in the enforcement of this section.

Sen. POULSEN: Mr. President, the amendment has mostly to do with the penalty on the use of wrong forms in writing insurance policies and it takes away the limit that the Commissioner could assess, so that he can assess a fine of greater amount than that in the RSA's.

Amendment adopted. Ordered to third reading.

SB 208, relative to prepaid legal insurance. Ought to pass with amendment. Senator Bergeron for the committee.

Amendment to **SB 208**

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 415-A the following new chapter:

CHAPTER 415-B

Prepaid Legal Insurance

415-B:1 Definitions. In this chapter:

I. "Prepaid legal insurance" means insurance to provide policy-holders with certain specified legal services.

II. "Policy" means the entire contract between the insurer and the insured, including the policy, riders, certificates, endorsements and the application, if attached.

415-B:2 Standards for Policy Provisions.

I. The commissioner shall adopt rules to establish specific standards, including standards of full and fair disclosure, that set forth the manner, content and required disclosure for the

sale of all policies of prepaid legal insurance which may be sold in this state by insurance companies, which shall be in addition to, and in accordance with, applicable laws of this state which may cover but shall not be limited to:

- (a) Terms of renewability.
- (b) Initial and subsequent conditions of eligibility.
- (c) Nonduplication of coverage provisions.
- (d) Coverage of dependents.
- (e) Preexisting conditions.
- (f) Termination of insurance.
- (g) Probationary periods.
- (h) Limitations.
- (i) Exceptions.
- (j) Reductions.
- (k) Elimination periods.
- (l) Requirements for replacement.
- (m) Recurrent conditions.
- (n) The definition of terms.

II. The commissioner may adopt rules prohibiting provisions which may be misleading or unreasonably confusing in connection with either the purchase of insurance or the settlement of claims; prohibiting provisions which may be contrary to the needs of the public or coverage which is so limited in scope as to be of no significant economic value to the holders thereof; and prohibiting provisions not otherwise specifically authorized by statute which, in the opinion of the commissioner, are unjust, unfair and unfairly discriminatory to the policyholder, certificate holder or subscriber, any other person insured under the policy, or the beneficiary.

415-B:3 Minimum Standards for Benefits.

I. The commissioner shall adopt rules to establish minimum standards for benefits under legal services coverage.

II. No policy shall be delivered or issued for delivery in this state which does not meet the prescribed minimum standards for the coverage as provided in paragraph I unless the commissioner finds such policy will be in the public interest.

III. The commissioner shall prescribe the method of identification of policies and contracts based upon coverages provided and may issue rules prescribing reasonable standardization and simplification of coverage to facilitate understanding and comparisons.

415-B:4 Outline of Coverage.

I. In order to provide for full and fair disclosure in the sale

of all policies of prepaid legal insurance, no such policy shall be delivered or issued for delivery in this state unless:

(a) In the case of a direct response insurance product, the outline of coverage described in paragraph III accompanies the policy; and

(b) In all other cases, the outline of coverage described in paragraph III is delivered to the applicant at the time application is made and an acknowledgment of receipt or certificate of delivery of such outline is provided the insurer with the application.

II. In the event the policy is issued on a basis other than that applied for, the outline of coverage properly describing the policy must accompany the policy when it is delivered and clearly state that it is not the policy for which application was made.

III. The commissioner shall prescribe the format and content of the outline of coverage required by paragraph I. "Format" means style, arrangement and overall appearance, including such items as the size, color and prominence of type and the arrangement of text and captions. Such outline of coverage shall include a:

(a) Statement identifying the applicable coverage provided by the policy or contract as prescribed in RSA 415-B:3

(b) Description of the principal benefits and coverage provided in the policy or contract.

(c) Statement of the exceptions, reductions and limitations contained in the policy or contract.

(d) Statement of the renewal provisions including any reservation by the insurer of a right to change premiums.

(e) Statement that the outline is a summary of the policy or contract issued or applied for and that the policy or contract should be consulted to determine governing contractual provisions.

415-B:5 Adoption of Rules. Rules promulgated pursuant to this chapter shall be subject to notice and hearing pursuant to RSA 541-A. When a rule adopted pursuant to this chapter so provides, a policy of insurance issued subsequent to the rule's effective date and any optionally renewable policy of insurance renewed subsequent to the rule's effective date which does not comply with the rule shall, not less than 60 days after the rule's effective date, be construed, and the insurer or corporation shall be liable, as if the policy did comply with the rule.

Sen. BERGERON: Mr. President, this is what I refer to as the lawyers relief and retirement act of 1977. What it does is it simply allows the Insurance Department of the State of New Hampshire to authorize the prepaid legal insurance under the complete jurisdiction of the New Hampshire Insurance Department. Originally in the bill it was set up where we had tentacles of all kinds of nonprofit organizations running around the state. The amendment simply takes it in under the insurance company offered and sold strictly by insurance companies.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Smith moved that the rules of the Senate be so far suspended so as to allow the introduction of a committee report on CACR 13 not previously advertised in the journal.

Sen. SMITH: Somewhere on your desks you have an amendment to CACR 13 which when the motion to take from the table is voted upon, move to suspend the rules on CACR 13. This is the constitutional amendment which will allow towns to split themselves up into representative districts. The town of Salem is particularly bothered by some 11 representatives running at-large and might like to split up into house districts within the town subject to legislative approval and referendum. What the amendment does is to allow in Senate redistricting, the Senate also, to avail themselves of these districts within the towns. This is an amendment which was drafted by the Attorney General for the committee and the bill was sponsored by Rep. Keeney. What the purpose of this amendment is, if some people will recall, we redistricted the Senate in 1971 and one of the big problems in redistricting was that there are in the southern tier of the state a number of very large towns, so that it is very difficult to combine these towns so that we comply with the one man one vote concept. If this amendment is adopted, and some of those very large towns avail themselves of the referendum procedure to divide themselves, this amendment would make Senate redistricting in 1981 a very much easier task and those Senators from the southern end of the state had better avail themselves and campaign for this constitutional amendment or whoever is here in

1981 is going to have a lot of problems in redistricting the Senate. It doesn't make much difference up north because you can take 25 towns and switch them around any way you want and come up within 15 votes of the 31,000 that are needed; but when you get to the southern end of the state and you have towns with 20,000, 15,000, 11,000 and you try to combine and get an equal sized district you've got real problems and I do hope that the Senate will go along with the amendment and the suspension of the rules to this constitutional question.

Sen. ROCK: Senator, in effect the amendment and the CACR do nothing except enable a vote to take place at some future date on whether or not a town, such as Salem, could divide itself into wards is that not true?

Sen. SMITH: That's correct and then the vote would be sent to the legislature and the legislature would divide the town however it sees fit.

Sen. ROCK: This amendment doesn't do anything to change any Senate district as we now know the Senate districts?

Sen. SMITH: That is correct.

Sen. ROCK: And it could not do anything to change any Senate district unless the Senate voted to redistrict itself?

Sen. SMITH: Further than that it wouldn't affect the present until the Senate approved the districting of the town which requested to be divided up.

Sen. KEENEY: Senator Smith, normally when we are passing a constitutional amendment, it's understood that it would be ratified by the people, that further legislation is required before the idea is carried out. However, I notice in your amendment, in part two, that you are adding to the original CACR as presented, part two, article 26a, in the second line, I note the words, "law providing for an apportionment to form senatorial districts under Article 26 etc." can you explain to me why that's necessary?

Sen. Smith: My understanding of that is that there would have to be a referendum in the town to allow the state legislature to redistrict or to divide the town up into districts so that the town would have the choice as to whether or not being redistricted, then we in the Senate during the redistricting could avail ourselves of those districts as they are set up.

Sen. KEENEY: First the referendum would be held in the municipality and then legislation would have to pass the general court?

Sen. SMITH: Right. Establishing districts.

Sen. KEENEY: And only after that had happened you could establish the Senatorial district, and it wouldn't apply to Representative districts?

Sen. SMITH: It would apply to the House districts after these districts had been established.

Sen. KEENEY: My concern is I wouldn't want to see a difference in the way the two parts of the constitutional amendment would be carried out unless there was a valid reason. That sentence doesn't appear in the first part but it does appear in the second part.

Sen. SMITH: I think this would be the same in both instances. Say Salem divided itself into eleven districts. Salem might be divided with four districts going to one Senatorial district and seven going to the other, depending on what was needed to balance out in other towns.

Adopted.

CACR 13, relating to: Legislative Districts, Providing That: A Town, Ward or Place may be Referendum Request that the Legislature Divide it into Two or More Representative Districts. Ought to pass with amendment. Senator Smith for the committee.

Amendment to CACR 13

Amend the title of the resolution by striking out same and inserting in place thereof the following:

CONCURRENT RESOLUTION PROPOSING CONSTITUTIONAL AMENDMENTS RELATING TO: Legislative Districts.

PROVIDING THAT: A Town, Ward, or Place may be Referendum Request that the Legislature Divide it into Two or More Representative or Senatorial Districts.

Amend the resolution by striking out all after paragraph I and inserting in place thereof the following:

II. Resolved, That Part Second of the Constitution of New Hampshire be amended by inserting after Article 26 the following new article:

[Art.] 26-A. [Division of Town, Ward or Place; Senatorial Districts.] Notwithstanding Article 26 or any other article, a law providing for an apportionment to form senatorial districts under Article 26 of Part Second may divide a town, ward or unincorporated place into two or more senatorial districts if such town, ward or place by referendum requests such division.

III. Resolved, That the above amendment proposed to the Constitution be submitted to the qualified voters of the state at the regular biennial election to be held in November, 1978.

IV. Resolved, That the selectmen of the several towns, cities, wards and places in the state are directed to insert in their warrants for the said 1978 election an article to the following effect: To take the sense of the qualified voters whether the amendments of the Constitution proposed by the 1977 session of the General Court shall be approved.

V. Resolved, That the sense of the qualified voters shall be taken by ballot upon the following question submitted to them by the General Court:

Are you in favor of amending the constitution to provide a town, ward, or unincorporated place may be divided into two or more representative or Senatorial districts if requested by a referendum in such town, ward, or place?

VI. Resolved, That the Secretary of State be required to print the question to be thus submitted on a separate ballot or on the same ballot that other constitutional questions proposed by the General Court are submitted. Upon the ballot containing the question shall be printed the word "Yes" with a square near it at the right hand of the question; and immediately below the word "Yes" shall be printed the word "No" with a square near it at the right hand of the question; and the voter desiring to vote upon the question shall make a cross in the square of his choice. If no cross is made in a square beside the question, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 1977 General Court" shall be added at the top of the ballot in bold type.

VII. Resolved, That if the proposed amendment is approved by the requisite number of votes, it becomes effective when its adoption is proclaimed by the Governor.

Amendment adopted.

Division vote: 18 Senators voted yea. 0 Senators voted nay.

Ordered to third reading.

SB 199, relative to failing to obey inspection requirements. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: Thank you, Mr. President. The present law provides that the operator or owner of a vehicle failing to comply with inspection requirements is subject to a fine. This bill takes up the operator of the vehicle and provides only that the owner of the vehicle will be subject to fine. In other words if you loan someone your car and they are stopped because you don't have a sticker on, you still will have to pay the fine and it won't be on the person who is driving the car. This seems like a very reasonable bill and we urge its passage.

Adopted. Ordered to third reading.

SB 193, permitting public service as an alternative sentence for conviction of certain crimes. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President, this bill would give a court where criminal offenders are found guilty of certain types of crime an alternative sentence mechanism which would involve the person working for not more than 50 hours of uncompensated public service under the supervision of an elected or appointed official of the town or city in which the offense occurred. Now, the only offense that this relates to is the offenses of criminal mischief and the offense of a false fire alarm. This bill had its origin as a House bill last session, introduced by Representative Hoar, which had a much broader application and it was felt there were many problems with the bill. The bill went to the Judicial Council. Judicial Council studied it and came back with this recommendation. This I feel is in line with what I think is the direction that criminal sentencing ought to go, and that is to provide more alternative types of sentencing, to give the sentencing judge more alternative and also to give a court more guidelines as to the type of sentencing that ought to be employed.

Sen. SAGGIOTES: Senator, how would this affect the statutes as they relate to present mandatory sentences?

Sen. BRADLEY: This would have nothing to do with any, there is only a few things for mandatory sentence. The judge is given discretion as to fine and how much within certain perimeters. This would give them another penalty to impose for two types of offenses. It wouldn't affect any mandatory sentence.

Adopted. Ordered to third reading.

SB 203, relative to the employment of attorneys to assist the Hillsborough county attorney. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, this bill is sponsored by the entire Senate delegation from Hillsborough County at the request of the Hillsborough County Attorney Ray Cloutier and basically it's a bill to correct a technicality which he was informed of by the Chief Justice of the Superior Court. All it does is authorize the Hillsborough County Attorney to employ as assistant county Attorney to assist him, provided that the County Convention does fund it or provided that other sources such as the federal government does fund it. So it doesn't do anything that isn't being done now. It just corrects a technicality.

Sen. KEENEY: Senator Bossie, would you believe you forgot one Hillsborough Senator?

Sen. BOSSIE: I noticed that and . . .

Sen. KEENEY: I do approve of it.

Sen. BOSSIE: I wanted to say, Senator, that I see in the copy from the file that your name has been added so I would like it officially for the record that Senator Keeney of District 14 is in favor of the bill and I apologize to you very much.

Adopted. Ordered to third reading.

(Sen. Keeney recorded in favor of the bill.)

SB 207, relative to foreclosure sales. Ought to pass with amendment. Sen. Bradley for the committee.

Amendment to **SB 207**

Amend PSA 479:25, II as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

II. A copy of said notice shall be served upon the mortgagor or sent by registered mail to his last known address or to such person as may be agreed upon in the mortgage at least 21 days before the sale. The term "mortgagor" shall include the mortgagor, a grantee of the mortgagor or the then-owner of the mortgaged premises and any person claiming a lien or other encumbrance upon the premises. Such persons other than the original mortgagor shall be entitled to such notice if the interest of such person is of record with the office of the register of deeds or the register of probate for the county in which said premises are located at least 30 days prior to the date of sale. Notice of sale shall be sufficient if it shall fully inform the mortgagor of the mortgage for the breach of which the foreclosure is to be held, the date, time, and place of sale, the town, county, street or highway and street number, if any, of the mortgaged premises, the volume and page of the recording of the mortgage, the location where the original mortgage instrument may be examined by any interested person, and the terms of the sale. Notice of the sale shall include the following language.

You are hereby notified that you have the right to petition the superior court for the county in which the mortgaged premises are situated within 20 days after receipt of this notice, with service upon the mortgagee, and upon such bond as the court may require, to enjoin the scheduled foreclosure sale.

Amend RSA 479:26, III as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

III. Title to the foreclosed premises shall not pass to the purchaser until the time of the recording of the deed and affidavit. Upon such recording, title to the premises shall pass to the purchaser free and clear of all interests and encumbrances which do not have priority over such mortgage. In the event that the purchaser shall not pay the balance of the purchase price according to the terms of the sale, and at the option of the mortgagee, the downpayment, if any, shall be forfeited and the foreclosure sale shall be void.

Sen. BRADLEY: The amendment is printed on page 16, although it looks fairly long it's really only typographical. We

changed a 10 to a 20 and just rearranged the sentence to make it gramatically more understandable. As to the bill itself this takes care of a variety of problems that have come to light invloving foreclosure procedure. Foreclosure procedure as you all know is when you don't pay your mortgage to the bank, the bank can publish your property for sale and sell it to pay off the mortgage. One of the problems, which is taken care of in section one, is that under Supreme Court cases as you may recall the Supreme Court has ruled that you can't take a person's property without giving them a right to go to court and that's why the attachment law has been thrown out and made unconstitutional. Now there is a worry that a foreclosure law would come under the same law, so section one of the bill attempts to take care of that problem by telling the homeowner when the notice of foreclosure is given that he does indeed have a right to go to court to challenge the appropriateness of the foreclosure. That's section one. Section two of the bill simply clears up a question about whether or not failure to record the affidavit deed following foreclosure is a fatal title defect or not and makes it clear that it has to be recorded. Section three of the bill deals with a problem where both personal property and real estate are covered under existing law and it's a little bit unclear how you go about foreclosing when you're trying to foreclose under both real estate and personal property. Also, back in section one of the bill is an ambiguity cleared up about where you have to advertise. The present law says you have to advertise in a paper published in your town and this makes it clear that that means it has to be in general circulation in the town. Also there is a provision in here which clears up ambiguity in the law when two parcels of estate are included in the mortgage and makes it clear you are entitled to hold the sale on either one of the parcels. It's a good bill, it will clear up a lot of problems for banks, Senator Poulsen, and also does no real injury to the consumer.

Amendment adopted. Ordered to third reading.

SB 265, concerning the selection and exemption of jurors. Ought to pass with amendment. Senator Bradley for the committee.

Amendment to SB 265

Amend the bill by striking out sections 1 and 2 and renumbering sections 3, 4, 5 and 6 to read as

1 , 2 , 3 and 4 respectively.

Sen. BRADLEY: This was a bill that was requested by the Superior Clerks Association, Superior Court Clerks Association making several changes in the jury selection process. Two of the sections would throw some of the burden of jury selection back on to the Selectmen, which seemed like a very good idea to the Clerks of Court. The other two seemed to be very routine kind of housekeeping things, so the amendment struck out the first two sections which are the sections which push the burden off on Selectmen and the rest of the bill is pretty much just housekeeping, which would help clear up some problems with jury selection.

Sen. POULSEN: Senator, was the jury selection system changed like five or six years ago? It seems to me there was a radical change in them at that time?

Sen. BRADLEY: Yes. There was a change put on the books four or five years ago or so.

Sen. POULSEN: Who did that? What makes the change, whose change was it?

Sen. BRADLEY: Well the legislature mandated it for a whole new jury selection system but, if I recall, the localities pretty much picked the people and then they'd send in those names. That was subject to certain kinds of abuses particularly where the same little old lady's name would be sent up each time and it turned out that that was the aunt of the Town Clerk or something and she liked to go there because she thought it was interesting, and you had a rather poor selection process. That was changed so that all the towns did was to send in a random list, two people for every thousand or every couple hundred I guess, to the Clerks of Courts, then the Clerks of Court would draw the names out of the hat and notify the people. Now, the problems the courts are experiencing now is that once they have drawn the names out of the hat and they start notifying the people, the people are saying we are not qualified, we are sick, we are not here, whatever. The Clerks have a very hard time verifying that so they feel that verification process ought to be given back to the

Selectmen and the Selectmen see that as quite a bit of extra work being thrown back on them. This bill would leave the system the way it's been for the last three or four years.

Sen. POULSEN: Would you believe I agree very much with this new procedure because this always seemed to be a good place to put old fellows who are retired for the winter.

Amendment adopted. Ordered to third reading.

SB 229, revising the laws of corporations. Ought to pass with amendment. Senator Bossie for the committee.

Amendment to **SB 229**

Amend the bill by striking out section 35 and inserting in place thereof the following:

35 Secretary of State; Powers Relative to Recording Corporations Changed. Amend RSA 294:15 by striking out said section and inserting in place thereof the following:

294:15 Powers and Duties of the Secretary of State.

I. When the record of organization is delivered for recording by the secretary of state, he shall before recording it determine that:

(a) the proposed name is in compliance with RSA 294:3;

(b) the articles of agreement are signed pursuant to RSA 294:5 and that the original record or a true copy thereof of the organization meeting is attested by the clerk, or the temporary clerk, pursuant to RSA 294:10;

(c) the statement required by RSA 294:10 is signed; and

(d) the fee required by RSA 294:113 has been paid.

II. When statements of amendment required by RSA 294:44 and RSA 294:48 are delivered for recording by the secretary of state, he shall, before recording the same, determine that:

(a) the statement of amendment relates to a corporation currently in good standing;

(b) the statement is signed; and

(c) the fee required by RSA 294:14 has been paid.

III. When agreements of merger or consolidation are delivered for recording by the secretary of state, he shall, before recording them, determine that:

(a) the proposed name of the continuing or resulting corporation is in compliance with RSA 294:3;

(b) the agreement is signed on behalf of all parties to the merger or consolidation; and

(c) the fee required by RSA 294:42 and RSA 294:113 has been paid.

IV. The secretary of state and those acting on his behalf shall incur no liability, either personally or on behalf of the state of New Hampshire, as a result of defects or inconsistencies in the documents recorded by them under RSA 292, 293, 294 and 296 or as a result of negligent acts or omissions in the handling and recording of those documents. In order to facilitate compliance with this chapter, the secretary of state may prescribe forms for use in meeting requirements of filing.

36 Corporate Existence to Begin with Recording. Amend RSA 294:17 by striking out said section and inserting in place thereof the following:

294:17 Existence, Begins When. The existence of every corporation organized pursuant to this chapter shall begin at the time of recording of the record of organization endorsed by the secretary of state.

37 Provisions Relating to Record of Corporate Amendment Changed. Amend RSA 294:44 by striking out said section and substituting the following:

294:44 Record of Amendment. A record of amendment, signed under the penalties of perjury by the treasurer and a majority of the directors, shall be prepared, setting forth true copies of the vote affecting such amendment or alteration, and stating that it has been duly adopted by the stockholders. In the case of an amendment increasing the amount of authorized capital stock, the record required by this section shall also state: (I) the total amount of capital stock previously authorized; (II) the amount of additional capital stock to be authorized.

38 Provision Made for Facsimile Signature. Amend RSA 5 by inserting after section 21 the following new section:

5:22 Facsimile Signature. The secretary of state, the deputy secretary of state, or the designee of either may affix a facsimile signature to any record or certificate required or permitted to be issued by them.

39 Effective Date. This act shall take effect 60 days after its passage.

Sen. BOSSIE: Mr. President, the amendment may be found on page 14. Basically what this bill and the amendment does

is strictly of technicalities in its simplification of the corporation law of the State of New Hampshire. As many of you know, those of you who might have corporations, at the present time to incorporate you must first of all submit your charter to the Secretary of State with a fee of \$60. He in turn would forward it along to the Attorney General who would read it over and approve it. Attorney General Souter has asked us to submit this bill because he doesn't want to be involved in the process because there is no need for him to do it. Either you follow the law or you don't. It also provides for consensual meetings of stockholders, directors and incorporators. Right now its a rather lengthy procedure, in as much as the law requires three people to form a corporation that requires the minimum of three directors, although one stockholder could own it all. These are called closed corporations because they are usually family corporations. It is an agreement of everyone involved, that we heard at the hearing, that these consensual meetings would be more appropriate in certain cases. Certainly, like if you have the Public Service Company of New Hampshire you won't be able to have a consensual meeting, people want to attend and do whatever business they want to do. This would also enable corporations to have fewer than three directors if there are fewer than three stockholders. At the present time, I'd say, probably 80% of the corporations in New Hampshire are owned by one person and so if you have one person that owns it, why have his wife or her husband and the secretary be part of the board of directors. Everybody's been complaining about it for years and finally something has been done. The next part would provide for easier solution. As we know now there are two ways to dissolve. One is to go to court and the second way is not to pay your filing fee and let the legislature dissolve the corporation. We will see a bill floating through here pretty soon in which eight or nine hundred corporations are dissolved. Well liability to corporation continues actually for three years after that date, notwithstanding the fact they are not allowed to act as a corporation. What this would do is to provide for a consent to have a dissolution and file it with the Secretary of State. That would be cheaper too. What would happen then is three years from that date the corporation would officially end but the liability would still run until that time. I think its a good bill. I know the committee that had worked on this worked hard. It

is sponsored by Senator Jacobson as well as myself. I think it is a good bill.

Amendment adopted. Ordered to third reading.

SB 266, concerning a fee to be paid to the register of probate at the filing of the final account for certain estates. Inexpedient—Incorporated into other legislation. Senator Bradley for the committee.

Sen. BRADLEY: Mr. President, this is a bill that would establish a \$10 fee to be paid upon the filing of a final account in an estate. It was recognized by everybody who appeared in connection with this bill that the bill was really put in for the purpose of funding the probate retirement bill which was a separate bill, and the committee therefore felt that it ought to be incorporated into probate bill. The committee has taken the probate retirement bill and is amending that. That has an appropriation in it so we don't have to act on that one today. If this bill is to see the light of day it will be in a bill coming along later.

Sen. LAMONTAGNE: Do I understand you correctly that this would be covered by another bill?

Sen. BRADLEY: Yes. We intend to incorporate the substance of this bill into a proposed bill on making probate judges full time giving them marital jurisdiction and retirement.

Sen. TROWBRIDGE: Do you have such a bill in your possession?

Sen. BRADLEY: Yes, we have a bill. It was introduced together and heard together and it's in our possession. We are working on an amendment that will have an appropriation and you will get to see it.

Sen. ROCK: Wouldn't it be appropriate, Senator, to lay this bill on the table pending the fate of the bill that you spoke of which sounds to be rather far reaching?

Sen. BRADLEY: It is far reaching and my feeling was when we wondered what we should do with it is that, my feeling was and the feeling of the committee that this kind of fee doesn't really have justification unless something like the other bill is going to fly. This is not a bonified revenue raising measure situation out there all by itself.

Adopted.

SB 40, repealing certain provisions currently included on tangible property inventory blanks. Ought to pass with amendment. Senator Foley for the committee.

Amendment to **SB 40**

Amend the bill by striking out section 4 and renumbering the original section 5 to read as 4.

Sen. FOLEY: Mr. President, this bill with amendment simply repeals some of the provisions that are on the property inventory blanks at the present time which really are outmoded and outdated and very unnecessary. A reference to boats which are not stock and trade and stock and trade is now obsolete. The provision requiring a list of all stock owned and domestic railroad corporations and all these things because the listings have already been received by the Department of Revenue and other places. The same thing with rooms and meals tax, and the provision requiring homeowners to list the latest assessed valuation is deleted. This bill was recommended to the sponsor by the Department of Revenue Administration. It's simply a housekeeping bill, cleaning up the provisions of the property inventory blank and we recommend its passage as amended.

Amendment adopted. Ordered to third reading.
(Senator Monier in the chair.)

SB 289, relative to the issuance of licenses to operators of golf, indoor tennis, racquet and curling clubs. Ought to pass with amendment. Senator Downing for the committee.

Sen. DOWNING: The amendment is one page 14 of today's calendar and all it does is refer an existing statutory are for the fee schedule for licenses. The original bill had it in there as \$100 fee for a license and it's already in the state as \$125, so the amendment just puts it in the right place. The bill itself merely allows individuals to be licensed as well as corporations. The Liquor Commission has been aware of the discrepancy and supports the bill. They have no problem with the committee report.

Senator Lamontagne moved to lay **SB 289** on the table.
Division vote: 7 senators voted yea. 14 senators voted nay.
Motion failed.
Motion of ought to pass with amendment.

Amendment to SB 289

Amend RSA 178:8, III as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

III. The fee for such license shall be the same as specified in RSA 178:7.

Amendment adopted.

Senator Bradley moved a further amendment to **SB 289**.

Sen. BRADLEY: I've been sitting on the Ways and Means Committee and every time we have had one of these kinds of bills they come in asking for a new category of license or amendment to the existing categories, I've always asked the Liquor Commission personnel what is their rationale for saying it's only corporation and not individuals, what is your rationale for having tennis clubs, ski clubs, fall rooms, theaters and not allowing pin ball machine alleys, bowling alleys, and clothing stores for that matter, and I've always got blank stares and it just seems to me that its fundamentally wrong the way we've gone about this thing. We've just got a hodge-podge patchwork thing which no one has ever sat down and tried to analyze and justify. We never know where we are whenever we get one of these bills and I think it's time that we said to the Liquor Commission let us know what you think about the justification for the existing category and let us know what you think we should use for criteria in determining whether or not we are going to allow whatever the next category is that comes along. We allow boats, but not buses, why? No one has ever told me that. We allow curling clubs, but we don't allow badminton clubs, why? You can go on and on. All this amendment is doing is saying to the Liquor Commission before we finish the next legislative session, give us your thinking on this so that we can act on these things in the future in an intelligent manner. That's all it is.

Sen. JACOBSON: Senator, I was intrigued to hear your presentation of this amendment, with respect to your desire to not make a decision without consultation with respect to this particular issue, and I noticed that some of our newspapers have been arguing recently that we should enter into consultation, that we should make our decision without consultation on various levels I'd like to know your response to that.

Sen. BRADLEY: I think that an agency charged with an area of supervision, such as the Liquor Commission, has every right and should be available to advise the legislature as to its thinking. The legislature may disagree with it totally or may come up with its own thinking. It seems to me only right and proper that we ask an agency like the Liquor Commission to tell us what their philosophy is and what the devil they are doing. Like I say, it's been five years now and I've gotten absolutely zero philosophy out of that Liquor Commission as to who ought to hold licenses.

Sen. JACOBSON: Agreeing with your conception would you also agree with me that those who bear the ultimate responsibility for any action that we may take might in some particular circumstances also be considered?

Sen. BRADLEY: You mean like the people who might be applying for the licenses?

Sen. JACOBSON: No just as a general conception.

Sen. BRADLEY: I guess I agree with that general proposition, yes.

Sen. SANBORN: Senator, I do not have the statutes at my fingertips here, however, I do know that there are special licenses granted to various groups for special events such as, we'll say the Lions over in Keene, the Legion here in Concord, the Elks in Portsmouth, may have a special dance and get a special license for the because they are holding it in some other place rather than their quarters, or they may be having a picnic at a picnic grounds and have a special days license so they may have a little fun and games, now is this saying too that they shall have a moratorium on this type of a license as of July 1, 1979 until somebody makes up their mind whether these are allowed or not?

Sen. BRADLEY: Well, I don't seriously suggest that there will be a moratorium. I just feel that this is the way to speak to the Commission loud and clear; we would like to have their thinking on this subject. I'd be glad to list the various categories, incidentally, just to demonstrate to you what a

hodge-podge we now have and to take the example you raise; special license for nonprofit organizations, why do they charge such an outrageously high prices in relation to other licenses, why does it expire after whatever is one or two days. I recently was involved with a nonprofit organization that wanted to get a liquor license. Well they said you can get one but you have to pay us \$100 a day and get another one every day you want it, which makes no sense at all. That's the kind of thing they wanted. They didn't have any category they'd fall into. I sat down and tried to explain well you fall between the stools and that is no rational basis on which to explain it.

Sen. SANBORN: You made the statement early on that you don't anticipate that there will be a moratorium, isn't that what the thing says?

Sen. BRADLEY: No, I anticipate that prior to July 1, 1979, a report will have been made and this law will have been satisfied and maybe from the '79 session on legislation in this area will be a little more intelligent.

Sen. LAMONTAGNE: Senator, you claim that you couldn't get any answers from the Liquor Commission, in this amendment did you get a hold of any Commissioner to find out what their opinion was?

Sen. BRADLEY: No. I wrote out this amendment about an hour ago after having discussed the possibility of doing it to the committee day before yesterday or so. But as I said earlier, I have asked, I suspect at least a half a dozen times, of the representative's who appeared before us when we had these kinds of bills what criteria we ought to use to decide and the answer always was, we don't know, why are you asking us and it seems to me that is fundamentally wrong and they ought to be thinking about that question.

Sen. LAMONTAGNE: When you put your hand this way who are you referring to?

Sen. BRADLEY: I'm referring to the response that I've always gotten from the Liquor Commission, various representatives including Commissioner Tentas when he appeared before our Ways and Means Committee.

Sen. LAMONTAGNE: Do you feel that the Liquor Commission, with all the different regulations set up by the Commission is there any way you don't feel they are doing their job? Is that what you're referring to?

Sen. BRADLEY: No, Senator, in the sense you asked the question I think we say that corporations that run racquet and

curling clubs are entitled to have a license and then they will write a regulation saying these kind of racquet and curling clubs can have licenses and they administer that and from all I can tell very well and very professionally and I don't have any complaint in that sense. My question is, why racquet and curling clubs and why not other things? Their answer has always been I don't know, somebody asked for the racquet and curling clubs.

Sen. LAMONTAGNE: Senator, when is the last time you went down to the office of the Liquor Commission?

Sen. BRADLEY: I don't think I've ever been to the office of the Liquor Commission.

Sen. FENNELLY: I rise in support of Senator Bradley's for two terms the Liquor Commission in the different areas is very very true. Sitting on the Ways and Means Committee for two terms the liquor commission in the different areas when they come in to testify for or against the bill and they do it in many areas. As an example there was a bill in the last session where an individual wanted a bill passed to bypass the vestibule to get to a cocktail lounge. The Senate passed it and the House passed it. The Liquor Commission was against it, but in the area of licenses, as far as my memory can recall, when a new license is coming up whether it is for bowling alleys it seems that the Liquor Commission is neither for or against the bill. Very seldom do they come to testify on issuing of new licenses. We have them for curling clubs, boats, one for pinball and things like that, so actually Senator Bradley's bill is trying to get some input out of the Liquor Commission saying what is the policy of the Commission. Not that we have to do that; but he has taken this amendment and said five years from now we would like a report of your input on the amount of licenses issued and so forth. I think what Senator Bradley is trying to do is get this gray area out of the picture, where the Liquor Commissioner will come before the committee and say okay we've got five curling club licenses, let's hold it at that etc. etc. I think the amendment is a good amendment and I hope you support it.

Sen. LAMONTAGNE: I don't feel we ought to interfere with the work of the Liquor Commission, especially when the Commission is working well. It's always produced additional revenue every year. They've always met their commitments and I think it would be an awful thing to turn around, especially when this amendment has not been talked over by the

Commission. They've never had a chance to give an opinion. I am against this amendment.

Sen. FENNELLY: You just said, on the decision of the Liquor Commission that in the past it has always been on the right tract. Do you think the decision on the Liquor Commission to open up stores on Christmas Eve and on New Years was a right decision?

Sen. LAMONTAGNE: Let me tell you that in my opinion the Commission was to try to bring in additional revenue.

Sen. FENNELLY: Do you think that decision of the Liquor Commission was correct, in allowing State stores say with the right of the Liquor Commission to put petitions in liquor stores, do you think that was right?

Sen. LAMONTAGNE: Look, I personally feel I have a lot of confidence in the Liquor Commission. I have a lot of confidence in any department that produce additional revenue.

Sen. FENNELLY: I agree with nearly everything you say, Senator Lamontagne, about the Liquor Commission doing such an excellent job in raising revenue; but do you think any agency within this State does everything right?

Sen. LAMONTAGNE: I refuse to comment on that.

Sen. BRADLEY: Senator Lamontagne, we now allow airport lounges to have a license, now if the bus depots were to come in and ask for a statute to authorize them to have a license wouldn't you like to know from the Liquor Commission their thoughts on whether or not it would be fair to allow airports to have licenses and not bus depots. Wouldn't you like to know where they stand? Wouldn't you like to know their policy and thinking as to how far we should go in extending liquor licenses to new categories?

Sen. LAMONTAGNE: Senator, I'll be very glad to answer that question. Again, if the General Court didn't put their nose into the business of the Liquor Commission then those people who went to the Liquor Commission might be operating today.

Sen. SMITH: Mr. President, I rise in favor of the amendment and of the bill. Now I have no prejudice either for or against Senator Downing's sponsorship of this bill, but I do notice that Representative French is on the bill and Rep. French comes from my district and I imagine there are some clubs that he is talking about in my district which may be requesting this piece of legislation; but as far as the amendment is concerned I also rise in favor of that, because year after

year I have seen bills come in allowing this one and that one to have some form of liquor license, and it's because of who knows what about who and the various types of people who happen to be in a bind or happen to want a drink at the moment. All this amendment does is to say after 1979, that's a little over two years, that the Liquor Commission should come to us with some opinion about who and what kinds of places and so forth should be granted licenses. Now, that means between now and the rest of this session, any special session which we have, and the next regular session of the legislature, we can bring in bills for pingpong clubs or any other kind of organization that wants to have a special license. After that two years if the Liquor Commission does not give us some idea what their thinking is and their problems, then we say let's cut it off; but we would like some idea from the Liquor Commission as to what kind of pingpong clubs etc. should be permitted to have licenses. I think this is a very good amendment and one which might, under some conditions, enlighten the legislature as to the thinking of the Liquor Commission and to some of the problems of enforcement. I hope the Senate will go along with this amendment and most importantly the bill.

Sen. BERGERON: Senator, what do you think would happen if the Chairman of Ways and Means or the Chairman of Senate Finance wrote a letter to the Liquor Commission instructing them to bring back the same type of information that we are asking for in this amendment, don't you think the same purpose could be accomplished?

Sen. SMITH: In a halfhearted way maybe. It will be on the books as the legislature's request and I think that holds possibly a little more weight.

Sen. DOWNING: Mr. President, I rise somewhat reluctantly to the pending amendment. I'd like to just advise the Senate during the last special session of the legislature I talked with the Chairman of the Liquor Commission about doing this type of thing, and also the Chief Investigating Officer, and they admitted that something needed to be done and we would work on it. I offered the Ways and Means Committee as helpers to work with them and try to develop something here. Really, liquor laws are just a hodge-podge. Something has to be done. We spend more time introducing more bills to take care of isolated instances. It's absolutely ridiculous, it's a waste of money, and it's a waste of your time and my time,

and there is no reason why they can't update this statute here and streamline things and get things the way they should be. I think that the amendment, as offered by Senator Bradley, is very timely inasmuch as we still have time to do this type of thing if it is necessary. I don't think it's necessary now. I think the introduction of the amendment is going to call the attention to the Liquor Commission that its gone beyond committee concern and it is a concern of the body now, and hopefully they will apply themselves to the area. They claim that they were ready to do it months ago. They claimed that they were going to do it. I was in contact with the Chairman on several different occassions which he said yes, yes we will get started on it, wait until I get this out of the way. I think this will give them the message and I think we will get some work done now. I would urge you to defeat this amendment. Give the Commission the chance to do things it should be doing and let the committee report as already adopted go on to third reading.

Senator Blaisdell moved the previous question.

Adopted.

Amendment failed.

Ordered to third reading.

(Senator Bradley recorded in favor of the bill.)

SB 22, relative to food and nutrition programs. Ought to pass with amendment. Senator Sanborn for the committee.

Amendment to **SB 22**

Amend RSA 189:11-a, II (g) as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

(g) The state board may grant a waiver from the provisions of paragraph I upon an investigation and report by the department of education to any school district which has a fall enrollment of less than 75 students attending school within the district and which votes to apply to the state board for such waiver. Any such waiver shall be for one year only but may be reapplied for by the school board upon the vote of the district in the same manner annually. If the state board does not act

upon the application within 60 days, the waiver shall be deemed to be granted.

Sen. SANBORN: Yes, Mr. President, the amendment you will find on page 18-19 of today's calendar. The Senate should recognize this bill by now. It was in here once before and there was much debate on it, and at the request of Senator Saggiotes and several others it was returned to the Committee on Education for further study. Working with Senator Saggiotes and others we came up with the amendment as shown on page 18-19 and you will note that it says that the State Board will now grant a waiver from the provisions of paragraph I, will still remain in the bill, upon an investigation and report by the Department of Education of any school district which has a fall enrollment of less than 75. This still remains roughly the original intent of the bill as originally presented to this Senate as amended. The big change here is any such waiver shall be for one year. However this request now goes to the State Board under this amendment and however the State Board must answer this request within 60 days after receipt of the request. This gives them time, at least, to have monthly meetings to at least look at this request and then either grant it or deny it. This is the only basic change. Senator Saggiotes feels much happier in having the State Board of Education at least view and investigate the request, and then I was satisfied as long as that 30 days was in there so they have to answer it within a given time limit, so this investigation doesn't run off into the far far future somewhere down the line. I ask the Senate to support the amendment and the bill.

Sen. HANCOCK: Mr. President, members of the Senate, I oppose the bill and the amendment. I feel the legislature was right in its decision to require that all school districts provide a school lunch program and there isn't any requirement that it be a hot lunch but there is a requirement that there be lunch supplied. I feel, regardless of the enrollment in the school, it is necessary in order to maintain the nutritional standards and health of many of these students that a requirement for a school lunch is mandatory, should be mandatory, and I feel we will be making a mistake if we adopt any exception to that program at this time. I feel very strongly about this and I urge that this be defeated.

Sen. BLAISDELL: Mr. President, members of the Senate,

I'm the sponsor of this bill even though I voted for the lunch program when it came out a few years ago, I put this in at the request of one of the small towns in my area. I investigated every aspect of this. In the small town of Stoddard which has about 10 or 12 children, I found through the school nurse that there was no wrong doing as far as the nutrition of the children and it was a vote of the town itself. They voted unanimously to ask for this waiver as a representative of the Town of Stoddard in my Senatorial district I put the bill in. I did not mean it to hurt any other district and I think the amendment the way it is is compatible with most everybody. It doesn't hurt anybody and I think it's a homerule aspect of running the school districts. I feel very strongly about the lunch program. I am in favor of this bill and I ask for your support.

Sen. POULSEN: I also am in strong support of this. I have much word from small towns, like Landaff, where they have a breakfast program that they don't want legislated. They want to be able to vote and decide for themselves whether they want it or not.

Sen. BRADLEY: I hear what you're saying about locality, wanting to have the choice themselves, but under this amendment isn't what is happening is that we are transferring that decision from ourselves to the State Board of Education?

Sen. POULSEN: I think we are transferring it to the vote of the town.

Sen. BRADLEY: But, as I understand this, the town has to vote it at the time, then they have to apply to the State Board and the State Board says either yes or no, so it's not a matter of local control, it's really a matter of being decided by the State Board. I'm wondering if this is the kind of decision we want to transfer over there.

Sen. POULSEN: I hoped it would be a matter of towns local rule to determine it. If the State again is involved, I'm not very happy.

Sen. SAGGIOTES: Originally I was opposed to the bill and reluctantly being a person who is willing to compromise I offered this compromise amendment and even so reluctantly I support the present bill as amended.

Senator Hancock requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Lamontagne, Poulsen,

Smith, Bergeron, Jacobson, Saggiotes, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Sanborn, Provost, Brown, Fennelly, Preston.

The following senators voted nay: Gardner, Bradley, Hancock, Bossie, Downing, Foley.

16 yeas 6 nays

Amendment adopted.

Ordered to third reading.

Senator Saggiotes requested a roll call. Seconded by Senator Lamontagne.

The following following senators voted yea: Lamontagne, Poulsen, Smith, Blaisdell, Rock, McLaughlin, Sanborn, Provost, Brown.

The following senators voted nay: Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Downing, Preston, Foley.

9 yeas 14 nays

Motion to order to third reading failed.

Senator Saggiotes moved to indefinitely postpone **SB 22**.

Division vote: 13 senators voted yea. 8 senators voted nay.

Adopted.

SB 211, permitting certain school districts to withdraw from a supervisory union. Split committee report—Ought to pass with amendment. Senator Sanborn for the committee. Inexpedient to legislate. Senator Smith for the committee.

Motion of ought to pass with amendment.

Amendment to **SB 211**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

permitting certain school districts to withdraw from supervisory union 53.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Withdrawal from Supervisory Union 53. Notwithstanding anything to the contrary in the RSA or laws of New Hampshire, any school district located in supervisory union 53 which has only a grammar or elementary school may withdraw from supervisory union 53 by a majority vote taken at the regular annual meeting of the district or a special meeting called for that purpose provided that an article is inserted in the warrant for said meeting relative to said withdrawal. A school district so withdrawing shall simultaneously with the withdrawal establish a program for providing education through the high school level for the students in that district through the payment of tuition to school districts that have high schools. Such district so voting to withdraw shall with the advice of the state board of education procure a superintendent/principal approved by the state board to carry out the duties of a superintendent for the school as set forth in the section on the powers and duties of superintendents of the regulations of the state board of education. Any withdrawal from supervisory union 53 shall not be effective until the next school year following the school year in which the vote to withdraw is taken and shall be subject to an evaluation by the state board of education of its effectiveness over a 4 year period.

Sen. SANBORN: Mr. President, you will find the amendment to **SB 211** on page 18 or 19 of today's calendar and, basically, the amendment is the entire bill and what it does in the amendment it says that a single district, school districts within Supervisor Union No.53, may withdraw from the school district by vote of the district and with the consent of the State Board of Education would provide them with Superintendent/Principal to operate their school. Their Superintendent/Principal then would assume the various duties as required in the duties of a Superintendent as defined by the State Board of Education and the school would proceed in that fashion. Two different districts from Supervisory

No.53 appeared before the committee in support of the bill which originally would allow any single district to withdraw and establish this. The committee was 2-2 split on allowing this to happen, and in order to try to give a little relief to the at least two towns that did appear, and which both happen to lie in Supervisory Union No.53, I had informed the committee and had the amendment, as shown on page 18, drafted which is now the bill. To give an idea what this can do, this allows the town, single school district towns within that Supervisory Union, to withdraw from the Union where the principle school of the union, school district of the union has several schools and has the majority vote in all the union operations. As it came out in testimony that where the various representatives of the districts have gotten together for the budget of the union at a regular meeting before people before any witnesses wanted to come, they decided on a budget and as a final means that is required by law which is usually just to meet the law everybody agrees as a final agreement the larger towns came in and put back into the budget many items that the smaller districts be requested be kept out of the budget and had been agreed to by all at the previous meeting. What this does is to allow these towns to drop out of the Union, have a Superintendent/Principal as head of their school, the Superintendent/Principal takes on the duties of Superintendent of the school in direct communication with the Department of Education in Concord, and it saves the towns anywhere from six to ten thousand dollars a year in their school budget. Now this may not seem like a large amount to some of these school districts around the state, that have got several millions of dollars in their school budget to go from year to year, but in a small town \$10,000 can make a difference in another dollar in tax. I ask the SENate to support the amendment of **SB 211** and the bill.

Sen. SMITH: I rise, Mr. President, in opposition to the amendment and to the bill. We have many bills and much discussion in this legislative body relative to Supervisory Unions. There are many Senators who are unhappy with the situation with Supervisor Unions. What this bill does is to completely fragment the educational system in the state. If a town votes under this amendment to withdraw from the Supervisory Union it does one thing, it mandates that the other towns in that Supervisor Union to pick up the budget, that portion of the budget. It also means, and if this were

applied on a statewide basis, a principal who is concerned with the day to day operation of the school with the scheduling of classes and the hiring of teachers, discipline, is going to have the responsibility of preparing budgets of presenting many of the items at the school meeting and taking over the functions of the Superintendent's office. It seems to me that it means this breakdown that the administration and the communication between the State Department of Education and the local districts is going to become more and more complex, because as you divide up instead of having the State Board working through Supervisor Unions, you then have them working through every school district in the state. I think this is just not good management. We have another bill which is going to come before the SENate, which talks about a unified single school district for the whole state. Now this, in effect, would abolish Supervisor Unions completely. We are hoping to have a study of this bill to bring back to the next session of the legislature and I don't think you can just abolish Supervisory Unions or throw this school district out. I think what you have to do is a little planning, organization, management here because as I see the bill that Senator Jacobson has sponsored on the unified system, fine, we abolish the Supervisory Unions, but we are going to have to replace the Supervisory Unions with some other intermediary administrative structure. I hope the Senate will go along with the killing of the amendment and also the bill.

Sen. SANBORN: Senator, did we receive any testimony indication that some of the school districts were not receiving all the various help and so forth that you enumerated that a Supervisory Union is supposed to provide to the district?

Sen. SMITH: Oh yes, Senator, we've heard that. We've heard that about other school districts besides the ones which you refer to. I agree with you, there is a problem with the Supervisory Union; but I don't think this kind of bill is a solution to that problem. I'm in a Supervisory Union, I think there are seven towns in that Union, and each school district in that Union thinks they are sole employer of that Superintendent, and the Superintendent can spread themselves just so far under the existing system. I'm not defending the existing system, but what I am saying is that I do not think from a good management point of view that this is a reasonable piece of legislation.

Sen. SANBORN: Relative to that Superintendent, which

sounded singular to me, it concerns spreading himself thin. Wasn't there testimony that in the district, which is referred to in the bill, that there is a Superintendent, one or two Assistant Superintendents, a business manager, and several clerk typists in the office, so it isn't one person spreading himself thin?

Sen. SMITH: That's right, Senator, but knowing the school board they don't want to talk to the clerk typist. They want to talk to the Superintendent.

Sen. SANBORN: I didn't hear any indication from testimony that they were interested in talking to a clerk typist, they wanted, as I understood it, the Superintendent wanted a couple of Assistant Superintendents, business manager and people who at least talk to them in a district, in a Union that only has 5 schools or only five school boards. Don't you think they should have had at least some once a month assistance from one of four people when there is only five school boards in the entire Union?

Sen. SMITH: Senator, that may be a problem in your Supervisory Union, but in my Supervisory Union and I think in most Supervisory Unions they go from one school meeting is one night, they go to that one, and then they go to another one, and another one. If you have five towns in your district that means every night of the week the Superintendent or the Assistant has to be at a meeting and beyond that, if you've got the problem that you talking about, Senator, maybe you'd better find a new Superintendent.

Sen. SANBORN: I agree that we should get a new Superintendent in Supervisory Union No.53, and I've been saying it for a good many years, but the State Board has rammed it down his throat. However, I don't see, and would you point it out to me, in the amendment which is now the bill where it says anything about your school district, the union school district of Keene, of Nashua, of Hudson, of Berlin, or your school district. Would you point it out to me where it says anything about Supervisory Union No.53.

Sen. SMITH: Senator, I was not referring to my school district as far as the amendment is concerned. I was referring to it in the bill. I think the same kinds of problems exist in most Supervisory Unions, and I think that what the solution is not to come to the legislature but to go to the school board to take some firm action at the Supervisory Union level. That is where the result has to be determined.

Sen. SANBORN: As I read the last line of the amendment, which is now the bill, am I right or wrong, it says that the State Board will make an evaluation of its effectiveness within a four year period if so voted by the towns?

Sen. SMITH: Make a study to evaluate the effectiveness of the withdrawal and have it subject to evaluation for its effectiveness. I don't think that's the way to approach things. I think the way to approach things if you want to change the Supervisory Union structure is do what Senator Jacobson is doing, establish a unified school system or some similarity to that with proper administrative structure within it, not just chop things off.

Sen. TROWBRIDGE: Senator Smith, I was interested in your debate with Senator Sanborn in that I understand that before the committee people were talking about the costs. Is it not true that under statewide supervisory supervision salaries the state pays the salaries of the Supervisory Union to the point of \$362,000 a year?

Sen. SMITH: That is correct.

Sen. TROWBRIDGE: So can you tell me exactly here if they splinter off one school district which will obviously lead to many more such bills just what costs are you talking about?

Sen. SMITH: Only a portion of the cost of the Supervisor Union is paid for by the State. Most of it is paid by the local district.

Sen. TROWBRIDGE: Does it not pick up the entire supervision salary, all their benefits, we pick up 40% of the school district retirement plus the Supervisory Union expense. Right?

Sen. SMITH: Right.

Sen. JACOBSON: I rise in support of the amendment. In fact I am in favor of the bill in its original form for several reasons. First of all I think the Supervisory Union and the Superintendents is an archaic institution that ought to be dispensed with. Secondly, the actual cost of the Supervisory Union is in excess of five million dollars throughout the state, and that the state's contribution is a very tiny percentage of the total factor. The most interesting part of this is that the State Board of Education appeared on this bill and they also appeared on the bill that unified school districts. This bill the State Board of Education said we can't do away with any Supervisory Unions because we've got to have a coordinated curriculum. Then the bill that follows this they came up and

testified, said the reason why we can't have any testing program is because every school in the state teaches American History differently. Now you can't go both ways. You can't have a coordinated curriculum on the one hand and on the other hand say that every school in the state teaches American History differently, therefore you cannot have any evaluation. Now there is something wrong with that. Then they came to the unified school district bill and they said we are against the unified school district because we are in favor of democratically elected procedures for school districts. Now you can't go everyway. This reminds me of a former President of the United States in his activities of stonewalling, because as you remember from the record he was here, there, and everyplace. And there was no consistent position. So I think we ought to allow this bill to pass and let it be a pilot program. For one thing it will save five nights a week as was indicated, because the Principal/Superintendent only have to go one night a week to the school board meeting and he can stay home the other four nights and take care of his family. I've heard many speeches that were in favor of families around here so I think we ought to let this bill fly and let it be an experiment. Sometime we may discover that in education change is possible.

Sen. DOWNING: Mr. President, I rise in support of the majority report. I just share with the Senate an experience that I had in the Town of Salem. You just can't imagine how frustrating it is to be perfectly justified in wanting to separate from a Supervisory Union and not being able to do it. The Board of Education is very very reluctant to change any of their patterns and their ways. They could give you the approval. We had a situation in Salem, we belong to a Supervisory Union, we pay 65% of the budget, we had 25% of the vote. When we separated we had a part-time Superintendent because he was sharing himself with other people. We have the Superintendent's office in another community. We had an Assistant Superintendent taking care of our immediate needs for that same amount of money. After separation we had our own Superintendent's office in our own town. We have the same Superintendent to worry about the whole Supervisory Union now is just worrying about our town. We had a business administrator and a full office staff for less money than we were contributing to a Supervisory Union, we only had 25% of the vote with what they were doing with the money. Totally frus-

trating and it went on for years. We finally introduced a bill in the legislature, it passed the House, came into the Senate, the Senator representing the district at that time was more concerned with the vote in the small town than he was in Salem and sent it to Council, which was in effect that time. I ended up getting appointed to Legislative Council. It took us two terms for the Legislative Council to do it, but we finally convinced even Jim O'Neil who was long standing Chairman of the House Education Committee and prior to being Speaker of the House finally convinced him that it was right, that this ought to be done that the State Board was just unreasonable and the only way for this to be effective is through legislation and they recognize that. Now, the recent conference we had on education the question even came up then. What do you do about separating the Supervisory Union when you have outgrown it? The fact is that recently communities just outgrow the Supervisory Union organization which is a very good program and it really fills the needs of most of the communities in the state but for some it doesn't. It's counterproductive. It works just the other way and they've got to be able to eliminate themselves out of it, got to be able to change. The State Board just doesn't do anything. The legislature has had to do it every time. I urge you support the report.

Sen. POULSEN: Senator Downing, would you believe that in the town of Littleton the school district this spring and winter purchased a piece of property, signed a mortgage, indebted itself for the payment of that property with no vote whatever and was declared legal by the court in that action?

Sen. DOWNING: If you tell me they did that, Senator, I believe you.

Sen. SMITH: Senator Downing, I was interested in what you had to say and in the horror stories which you gave us and I agree that there should be change in this. If you read **SB 297**, which Senator Jacobson also introduced, and talking about consistency I'm a little amazed at his sponsorship of this bill and that one. What **SB 297** does is to abolish school boards, Supervisory Unions, establish an elected State Board of Education which is direct, which is elected directly by the people and they then can do the administration in a reasonable way rather than leaving it in the present structure. Don't you really think an approach of this nature sounds more reasonable than trying to destroy or tear apart a Supervisory Union in this manner?

Sen. DOWNING: No, Senator. When a Supervisory

Union, when school districts have a need, and it reaches the point that it comes into this legislature, I think we ought to address that right away and, hopefully, the State Board of Education will do something about it before it ever passes before both houses. They have in the past and they will do it again.

Amendment adopted.

Division vote: 14 senators voted yea. 5 senators voted nay.

Ordered to third reading.

SB 218, concerning a statewide public school system performance evaluation. Split committee report—Ought to pass. Senator Sanborn for the committee. Inexpedient to legislate. Senator Blaisdell for the committee.

Motion of ought to pass.

Sen. SANBORN: Mr. President, I promise no long speech this time, but **SB 218** was sponsored by Senate President Jacobson. It requires a testing of all school students to a standard curriculum at the 8th and 11th grades. I think that Senator Jacobson has already mentioned previously the inconsistency of the State Board of Education, where they said that they needed something to this couldn't be done because American History, as he mentioned, is not taught the same in all school in the State of New Hampshire, and previously said they needed the Supervisory Union because that standardizes the education throughout the schools in the State of New Hampshire, how stupid. They further made the statement, and Senator Jacobson took them very much to task on this, that to establish one task one standard task for New Hampshire history would cost \$90,000 and Senator Jacobson took him out in the hall a little while later and said what are you talking about? This is stupid, I'll make out the test for you for free. \$90,000 is throwing money away if its going to take that much just for New Hampshire history but this is the way of the professional educator that is here over in the Department of Education. He doesn't begin to see anything relative to the pupils in our schools until you put up two hundred, three hundred thousand dollars, then he'd listen to you. In other words they are there for one purpose how much goes into my hip pocket and then we'll start talking about educating and they are great on this, they are great on saying the kids in the schools need this but providing that you put up the money. I very strongly urge the passage of **SB 218** because this is when the kids need to know

whether they are being taught subjects at a standard somewhere throughout the school system before they get ready to go to college and find that they can't even read or write or add three and three together and come up as they sometimes do now with eight.

Sen. BLAISDELL: Senator Sanborn, you didn't mention anything about the testing of teachers which this bill includes. Would you like to?

Sen. SANBORN: I'd be glad to elaborate on that, Senator. A statewide standard test provides you with several points of information and the principal point of information is that, as I stated not too long ago on this Senate floor, is that it finds out how well the teacher has imparted the knowledge to the student. This is one of the things that any test will do. If all the pupils, and I believe Senator Jacobson made this statement before the committee, come out with D- and Z's the teacher better start looking at the teacher and find out where am I missing in teaching this class. However, if it comes out in the mid B's and perhaps up into the A's the teacher then can understand that the teacher is at least getting the point across. This is the point of evaluation.

Sen. BLAISDELL: Are the Supervisory Unions, right now, are they testing their teachers, Senator?

Sen. SANBORN: They claim they have. I believe, Senator, a method of evaluation, but nobody can seem to find out what that method of evaluation is. It isn't definitely what the kids are learning.

Sen. BLAISDELL: Would you believe, Senator, that after the last six years of sitting here serving with you, that you say you're the country boy and taught this city boy something a little bit about home rule, don't you think that things like this in the local districts should be setting the criteria for their teachers and if they are doing it now shouldn't they be in charge of this. Shouldn't the people that pay the bill in that area be the ones that do this, Senator?

Sen. SANBORN: I believe, Senator, that under our present RSA's that certain subjects shall be taught in our grade schools with the idea that these subjects are going to be taught a certain level of confidence when that child comes out at the end of 12 long years in the grade school and high school and right now they are not reaching that competence level in a lot of areas where they are coming out and can go into Harvard, Princeton or any institution of higher level.

Sen. BLAISDELL: If this bill passes and we mandate this, who is going to pay the bill? No matter how small it is Senator I think it will cost a little more than what your talking about, but would you tell me why no money was put in this bill?

Sen. SANBORN: Senator, I think that you may receive, as I do being a member of the Senate Education Committee, a regular monthly report of the meetings of the department of education board meeting and I have noted over the last year or two that in those they are already making their plans right now for statewide testing and slowly trying to work into it. This and the State Education agrees that this is within a few years. The fact is, Senator, the schools used to do this at the state level and I believe that was information given to the present committee.

Sen. BLAISDELL: Do you really believe Senator that testing is a very simple manner, that it doesn't take years to develop tests of this type?

Sen. SANBORN: Yes I do. I don't think it's the problem that some people make it out to be.

Sen. TROWBRIDGE: Senator Sanborn, I was glad you included Harvard and Princeton in your analysis. Bill, I'm not overly concerned about this except one thing, why would it not be more interesting to a parent or student in this State to be tested on a national basis and not just on how he's doing in the State of New Hampshire? My question is did you consider at all in your committee that the State Board make it mandatory that every kid take the SSAT's, which are nationwide well known, they are all graded there by the testing service which is nationally respected and would really give that student some where he stands, not only with knowledge of relation to the fellow student in New Hampshire schools but nationwide, would that not be more helpful?

Sen. SANBORN: It's interesting, Senator, that you should ask that question because at our school district meeting held this very spring that very question came up, since that is an item in the local budget and has been for several years, and this may sound strange to these so strong proponents of the Superintendent but a Deputy Superintendent stood up before the committee and said this is money being thrown away, these tests are no good. I'm not agreeing or disagreeing with this statement. This is a professional educator and I'm not, but he's saying that these national tests don't prove a thing. Personally, I don't believe it.

Sen. SMITH: Senator, you mentioned that a witness from the State Department of Education mentioned the fact that the State had formally tested. Did he say why we are no longer testing?

Sen. SANBORN: He did give the information that this had been knocked off back in the '60's, I believe and he said it was because the Senate and the House, the Legislature, had taken away the funds and that was back in the times, which I don't understand, when we were supposedly more affluent than we are now.

Sen. SMITH: Was there also testimony that the Department was working on a testing program for the state?

Sen. SANBORN: I believe I stated that. Sometime in the future.

Sen. SMITH: Under this bill who would pay for the testing?

Sen. SANBORN: What do you mean?

Sen. SMITH: To pay for the administration and so forth of these tests?

Sen. SANBORN: I imagine they must have money in their kitty. They think they are going to, from their level, administer and expect the local school districts and the teachers who are already hired to do the job to give to the pupils. I don't see any need for extra help there.

Sen. SMITH: This bill as it is written sets up tests for two grades. If the Department of Education felt that it would be more appropriate to give tests at a different level under this bill they couldn't do it could they?

Sen. SANBORN: Well I can say yea or nay on that since the Department doesn't always listen to everything that is in the RSA's right now.

Sen. JACOBSON: Mr. President, I rise in support of it. I find it very difficult to comprehend that the State Board of Education, the Association of Principals, would not want to have a performance audit of their work. We are constantly talking about the need for performance audits and it seems to me that where we spend the greatest amount of money \$225 million dollars in education, that we ought to have performance audits and it seems to me that we could draw this testing program, and I drew 8 and 11 on, because eight is the transition point into high school and 11 is the year before their senior grade. Now, Senator Trowbridge talked about the SAT's. The SAT's are available of course on a voluntary system and the parent pays for them. But, they are voluntary and if you want

to make them mandatory I have no objection to that either and they are a national scale and could be used, but I'd like to see some of the things that are more basic. They are more or less general knowledge examinations rather than basic. Some of the things that I run into in college teaching all the time is the students don't know how to make a fraction into a decimal. It's very basic, or they don't know how to make a decimal into a percentage. Very basic. Now the statutes say that basic math is to be taught. If basic math is to be taught in all our schools then there ought to be some form of evaluating whether or not it's taught and I frankly cannot understand why there is any opposition to it. Now they did say, for example, they'd take \$95,000 to get a New Hampshire history examination prepared and I offered the services, without permission I would say, of Dr. J. Squires who is the expert on New Hampshire history and I feel confident that he could draw an examination that would be less than \$95,000. What these performance do and they even take into account variations in patterns of teaching and what we are looking for is to see whether or not the overall subject is being covered. Now my area that I know about is American History and they were saying in the testimony that it is taught different in every school in the State. Now I went through 10 editions of American History and I could not find any basic variation in any one of those textbooks one might emphasize a little more on one subject at one point or another point and the author might be drawn by one small point of interest that the other author doesn't but the basic pattern is there, boom, boom, boom, boom and therefor I simply can't accept that kind of argument because if their argument is a valid argument then something is wrong with the pattern of teaching American History. It seems to be incredible that the State Board of Education is unwilling to see a performance audit.

Senator Rock moved the previous question.

Adopted.

Adopted. Ordered to third reading.

(Senator Blaisdell recorded in opposition.)

Senator Rock moved that **SB 258** be taken from the table.

Adopted.

Sen. ROCK: I voted for **SB258** in its concept and original form as the Senate was much in favor of its passage. Subsequent to that, a matter came to my attention that concerned me somewhat that I felt could be attached with an amendment because it was directly pertaining to the same subject. So I moved reconsideration of **SB 258**, but I did not act on it at that time in deference to the sponsor, Senator Saggiotes was not here. I wanted to first explain why I moved reconsideration and I did make that brief explanation to the Senate. I'd like to make in lieu of a formal amendment that I have prepared, you have a copy on your desk that is incorrect, and another copy has been prepared by the Clerk and distributed.

Senator Rock moved that **SB 258** be placed on 2nd reading at the present time.

Adopted.

SB 258, permitting veterans of the Vietnam Conflict the use of armories for meetings.

Senator Rock moved an amendment to **SB 258**.

Amendment to **SB 258**

Amend the title of the bill by striking out same and inserting in place thereof the following:

An Act permitting veterans of the Viet Nam conflict the use of armories for meetings and requiring not less than 90 consecutive days of service to qualify for tax exemption.

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Service Exemption on Real Estate. Amend RSA 72:28, I (supp) as amended by striking out said paragraph and inserting in place thereof the following:

1. Every resident of this state who served not less than 90 consecutive days, any of which shall have been served within the dates indicated in paragraph III, in the armed forces of the United States in any of the following wars or armed conflicts, the Spanish War, Philippine Insurrection, Boxer Rebellion, World War I, World War II, Korean Conflict, or Viet Nam

Conflict, as hereinafter defined who has been discharged or separated therefrom under conditions other than dishonorable or the surviving spouse of such resident, and every resident, or the widow of such resident, whose services were terminated for a service-connected disability, in consideration of such service, shall be exempt each year from taxation upon his or her residential real estate in the amount of \$50 in taxes, and the widow of any such resident who suffered a service-connected death shall be exempt each year from taxation upon her real estate whether residential or not in the amount of \$50 in taxes. If a surviving spouse is not a veteran qualified for any of the foregoing exemptions and the surviving spouse remarries a person who is not a veteran of the wars or armed conflicts in this paragraph, the \$50 tax exemption shall be terminated.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. ROCK: If I were as efficient and eloquent as Colonel Benton I would have a chart drawn for the Senate today, and if you could envision a chart covering a period of 90 days applying to all the conflicts that are listed on this amendment under I. which are the same conflicts that were listed in the original **SB 258** then realize this bill has to do with \$50 exemption on real estate that is the entitlement of the veteran if he serves 90 days and what this bill does it says every resident of the state who has served not less than 90 consecutive days, and the word consecutive is a new word in the statutes any of which shall have been served within the dates indicated in paragraph III, and that's a new sentence, and then the rest of the statute is the way it was. If you will envision the case of a veteran joining the service and serving for 89 days before the Vietnam conflict ended under the present interpretations of the Department of Revenue Administration he is not entitled to the \$50 exemption. Now the Federal Government, the VA and the American Legion and the Veterans of Foreign Wars say in their regulations and statutes that as long as you serve 90 consecutive days any portion of which was within the conflict you're entitled to the benefits. One step above the Federal Government, and the VA, and the American Legion, and the Veterans of Foreign Wars, is Lloyd Price and he says "no, you have to serve them all within the conflict." I don't think that's necessary, what this says is any part of your 90 con-

secutive days within the conflict you get the \$50 and everything else stays the same and I urge the adoption of the amendment and final passage of the bill.

Amendment adopted. Ordered to third reading.

Senator Lamontagne moved to remove **SB 246** from the table. Adopted.

SB 246, requiring rear wheel drive motor vehicles to be equipped with snow tires.

Motion of ought to pass with amendment.

Sen. LAMONTAGNE: Mr. President, and members of the Senate, the majority of the committee is ought to pass with amendment and the amendment amends the bill by the word vehicles using rear wheel drive, passenger automobile and light trucks weighing not more than $\frac{1}{2}$ ton and $\frac{3}{4}$ tons. I'd like to explain it further. What this bill does it places snow tires on the rear wheels of passenger cars and light trucks, single wheeled trucks. It was felt by a majority of the committee that people are operating on the highways of New Hampshire even if they have a legal trade, which is 230 seconds. When there is a snowstorm this car holds up the traffic and endangers the life of people, and it was felt that snow tires should be compulsory in New Hampshire and I will yield to the sponsor of the bill, the Senator from the 17th district.

Sen. SANBORN: I'm uncertain a little bit how far Senator Lamontagne has gone on this bill, I think that Senator Lamontagne has hit the subject structly on the head. I think that many of us have been out here say in Concord or some other place, the early snowstorms have come along and put an inch or two of snow on the pavement and even if you have a small rise you find that all the traffic ahead of you is held up. The reason it is is because there is somebody up ahead that doesn't believe that snowtreads are any good for their motor vehicle. They continue to spin until a wrecker comes along and pulls them out of the way, and the rest of the sensible people who have put on their snowtreads continue on their way home. Several constituents have asked me to put this bill in and I did, in their behalf. They have found themselves stuck in Manchester, in Raymond, or wherever their place of employment is behind a long line of traffic and at the head of it there has

been somebody that believes a smooth tire is the way to go home in the winter time, not that that has the tread that is engineered and built to travel on snow. I did make the statement to the committee and even in the presence of the Department of Public Works and Highways that I would go along with it but I know the state wouldn't, that it be a requirement of studded tires, because I still say that a studded tire on any motor vehicle that has a posi-track rear end will go home. Whereas everybody else is sitting on the glare ice that we sometimes get in an ice storm and I have seen this happen. When I had a motor vehicle that had a posi-track rear end and put studded snow tires on, I continued home and everybody else stayed where they were. The amendment was at the request of the Department of Public Works and Highways who sees what the problem is and they endorsed the bill, and they do feel the amendment specifies light trucks, half ton and three quarter ton pick up trucks. They say that when you have a dual rear wheel that the problem then ceases. But they do feel that the half and three quarter ton vans and pickup trucks should be required to have the snow tread just like any passenger car and they even went a little bit further than perhaps we should go down into November because we get snowstorms in November through the first of May in some years.

Sen. SAGGIOTES: Senator, does the main bill or the amendment make any exceptions for steel belted tires such as Michelin tires or so-called micro site tires?

Sen. SANBORN: I cannot remember. It should be in the amendment if it is not we will see that it is if we get this bill over to the House. I agree there are certain tires they claim will do as well as a snow tread.

Sen. SAGGIOTES: Would you believe me, Senator, that I've heard that story before about getting it over to the House and having the House take care of it?

Amendment failed.

Senator Fennelly moved to indefinitely postpone **SB 246**.

Sen. FENNELLY: I don't know what to call **SB 246**, maybe it should be the great snowtire bill, but I would like to give the Senate some information pertaining to this particular bill and

how it would affect the citizens of the State and these are the figures checked with the AAA, Department of Safety. There is no state in the entire nation with the exception of Maryland that has this type of legislation. I also found out it was unenforceable in the State of Maryland. I tried to check to see if Alaska had it and haven't found out that information as yet. At the present time we have 486,000 registered passenger cars in the state, this is from the Department of Safety. Out of that 80% have snow tires, 10% do not. They have radials which is sufficient and 10% don't have snow tires at all. Now the 10% in my opinion are the people who can't afford snow tires. They get by with semi-radials or radial tires. Now if we were to enact this law, taking a figure of 484,000 passenger cars, 10% comes to 48,400 times \$25 per tire, times 50 times 48,400 comes to two million four hundred thousand dollars that the consumers of this state would have to pay. I'd like to point out to the Senate, these are AAA figures, that in 1971, 21 million sets of snowtires were manufactured and sold in the United States. In 1976 the AAA reported only twelve million sets, a drop of eight million sets of snow tires in America. Further information, the projection of how many snow tires sold in 1977 will be less than 10 million so there has been a drop due to better production within the rubber industry of the perfection to drive automobiles in snow with radial tires. Now all these facts and figures show the hardship it would have on 10% of the population, and 80% already have it, and 10% do drive on radials. So, I ask the Senate to support my motion of indefinite postponement.

Sen. POULSEN: Senator, do you see any way that we could take this two million and a half that we will save and apply it to help our fiscal troubles?

Sen. FENNELLY: I couldn't, Senator Poulsen.

Sen. LAMONTAGNE: Senator, do you have snowtires on your car?

Sen. FENNELLY: I have them on the Chevy, I don't have them on the Lincoln.

Sen. LAMONTAGNE: Did you know that without funds you can get snowtires from Welfare?

Sen. FENNELLY: I haven't applied for welfare yet, Senator Lamontagne.

Adopted.

(Senator Jacobson in the chair.)

SB 54, relative to utility collection practices and termination of utility service for nonpayment of charges. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, the Committee on Energy and Consumer Affairs recommends that **SB 54** pass. The testimony before the committee was that this bill did not go far enough. It did not do enough and that we should have certain other provisions in there for people who because of some medical disability should not have their utility turned off. We feel however, in view of the fact that the Public Utilities Commission has as a result of this bill and let there be no doubt about it that they have before them now a proposed rule which would in effect not only do this but substantially more than this to protect those people who have not paid their utilities for a reason. So, what we would like to do with this is to pass this bill as it is, and we have considered amendments. What we want to do is keep it alive, send it over to the House and if the PUC prior to the time of the final adjournment of the legislature should act favorable, then there would be no need for this Senate bill. So with this in mind we ask your concurrence.

Adopted. Ordered to third reading.

SB 294, establishing minimum standards for energy conservation in public buildings. Ought to pass with amendment. Senator Brown for the committee.

Amendment to **SB 294**

Amend RSA 155-C:1 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

155-C:1—Purpose. The energy policy and conservation act (PL 94-163) provides funds to the states for the development of a comprehensive energy conservation plan. The goal of each plan is to reduce energy consumption in participating states by 5 percent of projected 1980 consumption. In order to qualify for funding, state plans are required to include 5 mandatory measures, 2 of which are the adoption of statewide lighting standards for new and renovated buildings, and thermal standards for new and renovated buildings. This chapter

is a key part of New Hampshire's effort to formulate and implement a response to those requirements.

Amend RSA 155-C:2, V as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

V. "Public Buildings" means any building space where the general public is allowed entry as a normal part of the operation and use of the building.

Sen. BROWN: Mr. President, the sponsor of the bill for the Energy Commission and it's to comply with the Energy Policy Conservation Act of 1975, in which it passed Public Law 94-163, and it's objective is to reduce energy consumption to 5% by 1980. The amendment has eliminated the 10,000 square feet to any public building, because if we specified that they are doing it now in all buildings, so the 10,000 square feet really didn't amount to anything. And we deleted in line six, in the chapter stating the purpose of it, we deleted "and existing buildings" because in relation to wiring to do it to existing public buildings would be a monumental cost and task just for the new buildings that are being designed and constructed in the future. As you recall, President Carter in his energy message urged this very strongly to conserve the energy in public buildings.

Sen. DOWNING: I just want to rise in support of the motion and am delighted to see the Committee and Senate support the President's policy on energy.

Amendment adopted. Ordered to third reading.

SB 275, providing for mandatory distribution of instructions on safely installing solid fuel heating appliances. Ought to pass. Senator Brown for the committee.

Sen. BROWN: It's a simple bill and what it does because of the energy shortage many people are turning to cast iron stoves to burn wood and coal. This bill just signified that the manufacturer has to send with this the instructions as to how to use it because apparently there have been numerous fires created throughout the state by people not accustomed to wood and coal fires in stoves.

Sen. MONIER: I don't think it's a simple bill. I think it's a good bill.

Sen. SMITH: Are buffalo chips considered solid or liquid and how would burning those come under this?

Sen. MONIER: That's a very good question. Indians used to devise this on the basis whether you could pick them up or not to tell whether they were solid.

Adopted. Ordered to third reading.

SB 315, relative to mobile home foundations. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, this bill has nothing to do with buffalo chips. This bill was introduced by Senator Sanborn with regards to problems that some of his constituents had with mobile home foundations. Basically what the bill does is to say that no town may require any mobile to be placed on anything other than its mobile foundation. Apparently in a mobile home situation what is important that the various stresses placed upon the joints be done properly and if it is not done properly and if the foundation is placed improperly then the stress is on the wrong place and causes rapid deterioration and so it sounded logical. Nobody opposed it so we thought it might be a good bill.

Adopted. Ordered to third reading.

SB 241, establishing the southeast New Hampshire water supply project and making an appropriation therefor. (without recommendation.) Senator Foley for the committee.

Senator Keeney moved that the words "ought to pass with amendment" be substituted for the words "without recommendation."

Amendment to **SB 241**

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Water Resources Board to Implement Project. The water resources board is hereby authorized and directed to study,

develop and describe alternate methods of supply water to meet needs set forth in the plan for the seacoast fresh water supply developed pursuant to Laws of 1975, 256:1 and to develop proposed legislation for the 1979 regular session to implement the recommendations developed by it. The plan shall henceforth be known as the southeast New Hampshire water supply project plan.

2 Grants, Gifts; Expenditure Authorized. The water resources board is authorized to accept and expend any and all grants, gifts or other funds from any source for the southeast New Hampshire water supply project or any of the project's programs. Such funds which are surplus to the project needs shall be used to reduce the state's contribution to said project and any funds in excess of these needs shall be used to establish a capital reserve fund for project purposes.

3 Appropriation. The sum of \$275,000 is hereby appropriated for the biennium ending June 30, 1979 to the water resources board to hire a competent consultant to update and revise existing feasibility studies for the southeast New Hampshire water supply project, and to study and evaluate alternate methods of supply to those recommended in the existing study. The report shall be consistent with any coastal zone management plan applicable to the project recommended in it, and shall be sufficiently detailed so as to provide a data base in design and estimation of costs of construction of the project recommended. The economic and environmental costs and benefits of all proposed methods of supply shall be assessed, and the optimum method shall be recommended. This appropriation shall be in addition to any other appropriated to the water resources board and may not be transferred or expended for any other purpose.

4 Bonds Authorized. To provide funds for the appropriations made in section 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state a sum not exceeding \$275,000 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

5 Reimbursement of Funds. The terms of any contract as provided by under RSA 481:8 shall contain the provision that the water users shall reimburse all sums provided by the state of New Hampshire within the term of the contract to an amount equal to the appropriation of section 3 of this act.

6 Effective Date. This act shall take effect 60 days after its passage.

Sen. FOLEY: Mr. President, this bill establishes a southeast New Hampshire water supply project and it has been amended. It was a very ambitious bill to start with. We had a public hearing and decided the time was late, instead of going the whole way with the project we decided that we should have a study with the bill to come in at the 1979 session of the legislature. There is an amount of money in it and we would like to have it just sent to Finance from here.

Amendment adopted. Referred to Finance under rule No. 24.

SB 300, relative to the registration of unauthorized dams. (Without recommendation.) Senator Keeney for the committee.

Senator Keeney moved the words "ought to pass" be substituted for the words "without recommendation."

Sen. KEENEY: Some time ago there appeared a bill before our Senate dealing primarily with one single dam in the town of Jaffrey. At that time it was brought out to the committee that a number of these very old dams exist throughout the state, most of them having been built prior to 1850. The state is unaware of many of them and was proposing to us at that time to amend that particular bill to cover all the others. We felt it should be separately considered and consequently the Environment Committee entered **SB 300** which is before you now. It is primarily the proposal of the Water Resources Board as to how they feel these dams can best be recognized, registered and if there is need for any construction work or safety implementing to be done it can be handled. inventory of these very old dams throughout the state.

Sen. MONIER: I'd like to urge the Senate to support this bill. It is a very bad deal that they cannot and do not have a listing of dams that exist in this state, which they call unauthorized but at least those that are not known to exist can be transferred to the state. During the last flood control disaster and problems of this nature, Mr. McGee had asked several of

us if we would do something about this and I think this bill does this.

Sen. TROWBRIDGE: Senator Monier, who is responsible for reporting under this bill?

Sen. MONIER: That I can't answer, Senator Trowbridge. I just know there is a listing. I defer that to Senator Keeney.

Sen. KEENEY: Under the bill, the owners would be responsible for registering the dams with the Water Resources Board.

Sen. TROWBRIDGE: How do we communicate to the owners that they are supposed to register them if no one knows who the owners are?

Sen. KEENEY: Well, the Water Resources Board through its regular staff will set up a procedure for this. The bill doesn't address that aspect.

Sen. TROWBRIDGE: I think that we had this before, about five years ago, Senator Keeney, and I'd just like to caution you and make the question that if no one knows the owners how can you inform the owners who are then supposed to inform the Water Resource Board?

Sen. Keeney: Gradually I think maybe the owners may be tracked down. Your speaking about very old ones that there is a question about ownership?

Sen. TROWBRIDGE: Yes, my question is really one of logic, if the Water Resources Board knew who they were and where the dams were they wouldn't have to do an inventory. Your saying we pass a bill that says the owners should report in but no one knows who the owners are. I just question this procedure because it's going to be on the books.

Sen. KEENEY: Not having been aware of this coming to your attention before and that question of not having been raised at our hearing this morning, I can only assume that the Water Resources Board expects in the course of inspections of their other properties to be searching out these areas plus the publicity of this legislation going through is going to bring forth some owners. There isn't a penalty that I'm aware of for not reporting

Adopted.

Senator Trowbridge moved that **SB 300** be laid on the table.

Adopted.

SB 120, relative to including investigators in the office of the

attorney general in the definition of law enforcement employees entitled to additional salary increases. Ought to pass. Senator McLaughlin for the committee.

Sen. MCLAUGHLIN: Mr. President, members of the Senate, what we are doing in **SB 120** is paying four members of the Attorney General's office for working overtime. At the present time they are not getting compensation for it. All departments are in a similar capacity and we are recommending passage of this bill.

Adopted. Ordered to third reading.

CACR 23, RELATING TO: A Citizens' Referendum on any General Sales or Income tax. PROVIDING THAT: Sales and Income Taxes May Not Take Effect Until After Approval by 2/3 of the Qualified Voters of the State Present and Voting on the Subject. Majority report—Ought to pass; Minority report—Inexpedient to legislate. Senator Rock for the majority. Senator Smith for the minority.

Motion of ought to pass.

Senator Bossie moved an amendment to CACR 23.

Amendment to CACR 23

Amend the title of the resolution by striking out same and inserting in place thereof the following:

CONCURRENT RESOLUTION PROPOSING
CONSTITUTIONAL AMENDMENT
RELATING TO: A Citizens' Referendum on any General
Sales or Income Tax.
PROVIDING THAT: Sales and Income Taxes May Not Take
Effect Until After Approval by a Majority of the Qualified
Voters of the State Present and Voting on the Subject.

Amend Article 5-c as inserted by paragraph I of the resolution by striking out same and inserting in place thereof the following:

[Art.] 5-c. [Approval of Sales and Income Taxes.] No tax on the personal income of the citizens of this state nor any general sales tax shall take effect until and unless said tax or

taxes have been approved by a majority of the qualified voters of the state present and voting on the subject at the biennial election next following the adoption of any such tax or taxes.

Amend the resolution by striking out paragraph IV and inserting in place thereof the following:

IV. Resolved, That the sense of the qualified voters shall be taken by ballot upon the following question submitted to them by the General Court:

Are you in favor of amending the constitution to require that no sales or income tax shall take effect upon approved by the voters of the state at the next biennial election by a majority of the qualified voters present and voting on the subject?

Sen. ROCK: To those members of the Senate who were here during the 1975 session, this proposed legislation should appear quite familiar. You knew it last time as CACR 10. At that time it passed the Senate and it died in the House and I would think for those members who were here there would be no need to renew the debate, but let me say that a majority of the Rules Committee felt this provided no problem to them. We understand what it says before a sales tax or income tax could be enacted should it be necessary that it could not take effect until it had gone before the voters of the state on a referendum and that basically and simply is the bill. If a general sales or income tax were voted by the legislature, before it could take effect it would have to be approved by a 2/3 of the qualified voters present and voting on the subject.

Sen. MONIER: Mr. President, I rise in support of the majority report. As Senator Rock has said we have had this bill before the Senate at a previous time and it did pass. I think that we should be mindful of the fact that at the present time the citizens of our state are very aware of the budget crunch that we've all been hearing about since last December and are consistently bombarded with respect to the amount of money we must raise and I would follow that by saying with very little knowledge to the fact that we might look into cutting government costs in a true fashion. I have seen very little legislation offering that. In this particular case and in this particular time, I think this is a very timely and a very necessary amendment to the constitution and I stress the fact that is exactly what it is. The biggest argument against broad base

taxes is very simply that it gives the money to the politicians and to the government and if the government is then given more money they automatically will spend it and I think that is probably the truest law in politics that exists today in government. By the same token such a protection for the guy on the street that doesn't have time to attend budget hearings and doesn't have time to be heard in the halls of the hallowed legislature but does have time and did have time during the last election to vote 53,000 vote plurality on almost this basic issue certainly ought to have the same kind of protection to make certain this state doesn't fall in the path of every other state in the union. On that basis I have introduced this legislation in every session that it's been in. It has been defeated in the House consistently, that doesn't disturb me in the least. I think that we need this in the constitution, I think it ought to be there. I strongly support the majority report. I am well aware that there is an amendment going to be offered to it. I state now that I support that amendment when it comes out. I think now it's ready and I think in so doing it may surprise a couple of people but I'm not at all scared of having a majority pass on a particular effort. Last but not least there has always been a constant state of confusion of those who do not want this particular thing in the constitution. This does not change the number of votes required to make it a constitutional amendment. That's in the constitution. It takes 2/3 to do that. Therefore, the 2/3 mentioned here on the amendment being offered is in terms of the approval or disapproval on a referendum by the citizens of the state with respect to any such tax if it should be passed in the legislature. With that I will cease.

Sen. BOSSIE: Basically, Mr. President, my amendment makes this constitutional amendment what I believe more palatable to everyone. It removes the provision that it would take 2/3 of the voters to approve any sales tax or income tax and would require only a simple majority. Frankly a constitutional amendment of this nature would put into the constitution that the people must approve of a general sales tax or income tax. I have no problem with that. The same time I think that if we are going to run a constructive government that the majority should prevail rather than a 2/3 vote. I think under this proposal that many of the problems that many of you may have had with this will be resolved. Of course there would be no resolution as long as it is going to be added to the

constitution. Perhaps this would make it much more palatable also to the members of the House.

Sen. BRADLEY: Senator Bossie, in your opinion is the current interest and dividends tax a personal income tax? Or a tax on the personal income of the citizens of this state?

Sen. BOSSIE: I really would like to defer that question to others.

Sen. BRADLEY: Would you believe me that I think it is? Assuming for a moment that it is, do you think we would be able to increase the interest and dividends tax as it is presently proposed in this session without putting it to a referendum?

Sen. BOSSIE: Well, if we interpret in that manner, perhaps it should be by referendum.

Sen. TROWBRIDGE: I think its interesting on this bill that it hasn't come in, as Senator Rock says, coming back like a song and most of the arguments you've heard before will be heard again but I'll be brief. Anytime that I think that the elected people of this Senate and House have to go back on referendum to decide something that is basically simple as whether they need a revenue source that grows with inflation I think that you might just as well wrap up the House and Senate and disband them, unnecessary if we can't make these kind of decisions here. Everybody says "oh wonderful we are sending it back to the voter," who very often, is delighted to have someone up here representing them who knows what's going on and has some idea of the facts in front of them as to whether there is a need for a sales or income tax which of course is always left out of this kind of amendment. I would also like to state that as far as I can see the people who are proposing these kinds of amendments are not the ones that come and offer any solution to the budgetary crisis of this state. Not anybody who comes in and offers how you would cut, they are not there to give any guidance as far as I can see as to how you would balance a budget where you have real needs being left out and so I think this is another way that a certain segment of our legislature is saying "I'm a coward, I can't make the decision," I've got to run behind the constitutional amendment to send it back to the citizen who supposedly elected them to come here to make these decisions. I will vote against it regardless of any amendment.

Sen. SMITH: Mr. President, I rise in opposition to the amendment and to the CACR 23. This is the usual Pavlov's dog constitutional amendment. Bill Loeb's Pavlov's dog, and

you know what Pavlov's dog did, he salivated when a bell rang, and anytime anybody mentions a broad base tax around here people salivate in anger, and it seems to me that Senator Bradley's questions as to what general sales or income tax is rather relevant. If this were adopted we may have a lawyers full employment bill on our laps. It just is something which I feel is not, should not be, a part of our State Constitution. If you want to pass a bill and send it back on a referendum to the constitution is just absolutely incredible in my view.

Sen. MONIER: Senator, I assume that Pavlov's dog by you is Loeb, but you recognize the Pavlov's dogs that are going to vote on this are the voters don't you?

Sen. SMITH: Fine, on a referendum on a bill if that is what you want. If a bill passes, put it on a referendum but not into the constitution which will create problems for future generation to eliminate.

Senator Blaisdell moved the previous question.

Adopted.

Division vote: 13 senators voted yea. 7 senators voted nay.

Amendment adopted.

Senator Rock moved that CACR 23 be laid on the table.

Division vote: 14 senators voted yea. 6 senators voted nay.

Special Order 11:01

SB 181, amending certain provisions of the land sales full disclosure act.

Motion of "ought to pass with amendment."

Senator Smith moved a substitute amendment.

Amendment to SB 181

Amend RSA 356-A:3, I (a) as inserted by section 5 of the bill by striking out same and inserting in place thereof the following:

(a) Subdivided lands if not more than 15 lots, parcels, units or interests are included in such subdivided lands; provided, however, this exemption shall not apply to subdivided lands involving time share interests;

Amend RSA 356-A:5, II as inserted by section 12 of the bill by striking out same and inserting in place thereof the following:

II. A subdivider of subdivided lands of no more than 50 lots, parcels, units or interests may make an abbreviated registration in lieu of these requirements, which shall contain only the documents and information required by RSA 356-A:5, I (a), (c) - (h), (j), (n) - (p) and (v); provided, however, that this section shall not apply to subdivided lands involving time share interests.

Sen. SMITH: Mr. President, I rise and hope the Senate will defeat the amendment as offered by the committee, which has under A subdivided lands if not more than 25 lots, and I would like to substitute and has been generally agreed upon by those who were concerned to reduce to 15 lots and if this motion is defeated I would introduce that amendment.

Sen. LAMONTAGNE: Mr. President, members of the Senate, as you know, yesterday I asked to have this matter made a special order for today and the reason why is that I wanted to have the opportunity to be able to look at some communication that I had asked for and received. I had asked today that the 25 be changed to 15 and from my understanding from Senator Smith that the amendment now proposed is 15, and therefore if the 25 has been changed to 15 I would support **SB 181** as is amended.

Sen. TROWBRIDGE: I'd just like to say, as sponsor of the bill, that the amendment is much better and I hope we pass this bill.

Substitute amendment adopted. Ordered to third reading.

Senator Hancock moved that **SB 171** be taken from the table.

Adopted.

Motion of ought to pass with amendment.

Amendment to **SB 171**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to dredge and fill and the location and certain specifications of wharves and piers.

Amend RSA 483-A:1 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

483-A:1 Excavating and Dredging Permit; Certain Exemptions. No person shall excavate, remove, fill or dredge any bank, flat, marsh, or swamp in and adjacent to any waters of the state without written notice of his intention to excavate, remove, fill or dredge to the water resources board. Said notice shall be sent by registered mail to the water resources board at least 30 days prior to such excavating, removing, filling or dredging with a detailed plan drawn to scale of the proposed project. At the time of filing with the water resources board, said person shall also file 3 copies of said notice, with or without detailed plan, with the town clerk. The town clerk shall send a copy of the notice to the selectmen, mayor or city manager, the municipal planning board, if any, and the municipal conservation commission, if any.

The construction, repair and modification of structures in or adjacent to any waters of the state which does not involve excavation, removal, filling or dredging of any bank, flat, marsh or swamp is exempt from the provisions of this chapter.

3 Exemption of Certain Wharves and Piers. Amend RSA 482 by inserting after section 41-i the following new section:
482:41-j Wharves and Piers.

I. After the effective date hereof and notwithstanding the generality of RSA 482:41-e and 41-f, a grant of right from the governor and council pursuant to RSA 482:41-f shall not be required for the construction, by an individual owner of shore frontage, of any wharf or pier located adjacent to shore frontage owned by such person, and for the sole purpose of mooring watercraft owned by such person and members of his or her family, provided that such structure is less than 40 feet in length, and is not wider than 15 feet at its widest point, and, provided further, that such structure does not require placing fill, or dredging, or excavating the lake bed, or that such structure does not require a covering, roof or canopy.

II. No grant of right shall be required for the repair of any existing wharf or pier that does not increase the size of the

structure, and no grant of right shall be required for wharves or piers that are placed in the water at the beginning of the boating season and are removed thereafter, provided such structure is no larger than the size specified in paragraph I.

Amend section 4 of the bill by striking out same and renumbering section 5 to read as follows:

Sen. HANCOCK: You have three pieces of paper which refer to SB 171, I'm speaking on the amended copy. What this endeavors to do, Mr. President, is to allow certain changes to be made in wharves, in piers that do not interfere with the lakes or streams. It would permit anyone who found it necessary to replace or repair a dock to do so without going to the dredge and fill board for that purpose. Principally that's what it accomplishes.

Sen. LAMONTAGNE: Senator, I'd like to make sure that the committee amendment does include what Geroge McGee or his staff wanted, so now I'd like to go to the first page of the amendment after the word it says "if any". In the proposed amendment so you still have the construction repair and modifications of structures?

Sen. HANCOCK: Yes sir, I have.

Sen. LAMONTAGNE: Now on the second page and I'd like to go where it says "wider than 15 feet at its widest point, and provided, so" you have that in there?

Sen. HANCOCK: Yes.

Sen. BLAISDELL: Senator Hancock, you know I was concerned about whether or not we could fill the beaches. We had a yacht club for instance right next to my cottage up on Spofford and they've been stopped from putting sand on their beach, does this in any way, is there any prohibition against that or can they do it. I had an amendment on this and I see it's not on it?

Sen. HANCOCK: You had an amendment which covered 20 cubic yards per year of sand and we checked this with the Attorney General's office and Mr. Stever who is in charge of environmental affairs said you may now do that.

Sen. BLAISDELL: Can I ask under what statute that might come under because they've been telling us we have to get permits to put any kind of sand on our beaches?

Sen. HANCOCK: I'm sorry I can't cite the statute but I did

check that with him this morning and will be glad to get the citation for you and give it to you.

Sen. PRESTON: Senator Hancock, are you aware that the state two years ago appropriated monies for the construction of fishing piers in Portsmouth & Hampton? And as recently as this spring the dredge was forced to stop removing further sand on a state project as a result of a specific date as suggested by the EPA. Is there any change in this bill that would make the law more rigid as it applies to the ocean waters, the harbors, because it does elude removing fill and dredge from marshes and swamps?

Sen. HANCOCK: Well that's the present bill. No, there is nothing in that. The only purpose of this bill, and it was introduced by Senator Smith, was for the purpose of repairing docks and wharves and piers or replacing same without going to the Dredge and Fill Board.

Sen. PRESTON: Then the wharves are for repair or new construction also pertain to the harbors in Hampton and Seabrook would they not?

Sen. HANCOCK: Yes. But if the bottom of the lake I think your reference they were dredging and certainly they should come under the law in those circumstances but this would not speak to that question.

Sen. PRESTON: Would the removal of sand by excavation would that be a type of dredging?

Sen. HANCOCK: Absolutely.

Sen. PRESTON: Are there any changes in this law that would make the law more rigid than it did?

Sen. HANCOCK: There are none.

Sen. LAMONTAGNE: I'm very much in favor of the bill since the committee has made the corrections and added them to the amendment and I'm referring to the construction repairs. Now before there was a question in the law on whether or not the special board was stopping an individual from doing repairs or building; for instance, a case in Berlin involved an individual that was not making any change at all to the dock, the only thing that he was doing, that he had a lot of complaints by his neighbors that the place was very dangerous and therefore he turned around and put in some new board and just because he put in new boards the Attorney General sent him a letter and told him he was going to be arrested. The man got a heart attack out of it and this was really very serious but I personally think there are many docks that ought to be re-

paired and if you adopt this amendment to **SB 171** it means that from now on you will not have to have a permit. You will be able to repair the docks and it goes further, it says if you be able to build 40 by 15 feet. Therefore I personally feel that this is a good safety measure.

Sen. SMITH: Mr. President, this has sometimes been known as the Steve Smith sunbathing bill. I introduced this bill, Mr. President, because of a problem that I have seen on Squam Lake, and other lakes around the State in that docks are put in with pipes in the summer and taken out in the fall. The pipes are pounced into the sand and docks attached to them and are taken out. Last summer I repaired a dock and replaced it because it all rotted out. Because it was new, one of the boat inspectors saw it and came in with his briefcase full of papers and said do you have a permit, and I said no, and at the time I was running for the State Senate and I didn't particularly want to see my picture on the front page of the Union Leader being in violation of the law so I filed the forms and under the law you have to make five copies and each application is five pages. You take them to the Town Clerk, she has to keep three of them and then you send them to the Water Resources Board. One of the things we did on this dock was to put a tee on the end because it warbled and it was safer and better construction. I got a refusal back on the application because tee docks are supposedly unsafe shaped docks, one way or the other, and it just seemed to me that this was ridiculous legislation and an administrative takeover well beyond the intent of the dredge and fill law. I think it would be, the enforcement of this is impossible and the paperwork involved for the special board which has many serious matters before it or the Dredge and Fill Board is just the work they have to do is monstrous to say the least and to add these kinds of docks, the administrative procedure is just mindboggling and I hope the Senate will go along with the amendment and bill.

Sen. BROWN: Senator Smith, can you assure me that this does not put further restrictions on the present dredge and fill laws that we have, that it only refers to the docks in which you speak?

Sen. SMITH: That is correct which there are thousands in the state.

Amendment adopted.

Senator Lamontagne moved a further amendment.

Amendment to SB 171

Amend RSA 483-A:1 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

483-A:1 Excavating and Dredging Permit; Certain Exemptions. No person shall excavate, remove, fill or dredge any bank, flat, marsh, or swamp in and adjacent to any waters of the state without written notice of his intention to excavate, remove, fill or dredge to the water resources board. Said notice shall be sent by registered mail to the water resources board at least 30 days prior to such excavating, removing, filling or dredging with a detailed plan drawn to scale of the proposed project. At the time of filing with the water resources board, said person shall also file 3 copies of said notice, with or without detailed plan, with the town clerk. The town clerk shall send a copy of the notice to the selectmen, mayor or city manager, the municipal planning board, if any, and the municipal conservation commission, if any. The construction, repair and modification of structures in or adjacent to any waters of the state which does not involve excavation, removal, filling or dredging of any bank, flat, marsh or swamp is exempt from the provisions of this chapter. Agricultural soil and water conservation construction projects and practices planned, designed and supervised by U. S. Soil Conservation Service are exempt from the provisions of this chapter. Except that designs and plans for the construction of dams must be submitted to the special board.

Sen. LAMONTAGNE: You will find that the amendment says agricultural soil, water conservation construction projects and practices planned. The purpose of this amendment is to give the farmers the opportunity to be able to get into construction early. What the amendment does say is that the supervision by the U.S. Soil Conservation Service is exempt from the provisions of this chapter except that designs and plans for the construction of dams must be submitted to the special board.

Sen. HANCOCK: Mr. President, members of the Senate, what the proposed amendment of Senator Lamontagne's does is exempt the U.S. Soil Conservation Service projects from

the provisions of the dredge and fill chapter and I would like to speak in opposition to that. As you know the Soil Conservation Service has many small dam projects and many water conservation projects and I know that they endeavor to proceed with care, but on the other hand I see no reason for exempting them from the provisions that are inherent to everyone else who wants to put through dredge and fill operations. As been pointed out by Senator Preston, in the seacoast area there are many dredge and fill operations in marshes and this would be giving special consideration to the Department of Agriculture which I think is not necessarily warranted. It was the committee's unanimous opinion that this not be allowed and I urge that you defeat the amendment.

Sen. LAMONTAGNE: Senator Hancock, did George McGee from Water Resources appear in favor of this amendment?

Sen. HANCOCK: The amendment, as I recall he did not speak to the amendment, he spoke to other things.

Sen. LAMONTAGNE: Senator, are you also aware at the same hearing that Stever from the Attorney General's office was in favor of it too?

Sen. HANCOCK: He did not say that.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Downing moved that the rules of the Senate be so far suspended as to allow all bills with the exception of CACR 13 be placed on third reading and final passage at the present time.

Adopted.

Third Reading and Final Passage

SB 285, relative to the accelerated Federal-Aid highway construction program.

SB 308, including stairway inclined lifts and chair devices within the statutory definition of elevators.

SB 288, relative to nursing home administrators.

SB 232, relative to voting lists in the city of Manchester.

SB 238, relative to waiving competitive bidding for the city of Manchester under certain conditions.

SB 269, relative to school committee elections in the city of Manchester.

SB 231, relative to changing party affiliation in Manchester.

SB 255, relative to female lobsters.

SB 248, restricting the taking of alewives and river herring.

SB 257, relative to commercial salt water fishing.

SB 185, relative to penalties for violation of fish and game offenses and repealing the taking of trout less than 6 inches in length.

SB 310, which changes certain laws which refer to game animals, game birds, furbearers and fish to the general category of wildlife.

SB 198, restricting boating on Pow Wow River in Kingston.

SB 309, providing for the stamping and sale of skins.

SB 256, relative to the reporting of lobster catch.

SB 105, relative to registration fees for foreign non-profit corporations.

SB 277, amending the state industrial development act and reclassifying a portion of Pennichuck brook.

SB 205, exempting certain motor vehicles and building equipment from public highway weight, height and width limitations.

SB 223, relative to the winter maintenance of Diamond Pond road in the towns of Colebrook and Stewartstown.

SB 271, exempting certain governmental entities from the payment of motor vehicle road tolls.

SB 272, requiring notification of the owners of certain abandoned motor vehicles.

SB 283, relative to motor vehicles declared to be totally damaged.

SB 226, relative to credit life insurance and credit accident and health insurance.

SB 227, relative to the expiration dates of licenses granted to insurance companies, agents and adjusters.

SB 274, relative to licensing automobile insurance appraisers.

SB 276, concerning the penalties for using unapproved insurance policy forms.

SB 208, relative to prepaid legal insurance.

SB 199, relative to failing to obey inspection requirements.

SB 193, permitting public service as an alternative sentence for conviction of certain crimes.

SB 203, relative to the employment of attorneys to assist the Hillsborough county attorney.

SB 207, relative to foreclosure sales.

SB 265, concerning the selection and exemption of jurors.

SB 229, revising the laws of corporations.

SB 40, repealing certain provisions currently included on tangible property inventory blanks.

SB 289, relative to the issuance of licenses to operators of golf, indoor tennis, tacquet and curling clubs.

SB 211, permitting certain school districts to withdraw from supervisory union 53.

SB 218, concerning a statewide public school system performance evaluation.

SB 258, an act permitting veterans of the Viet Nam conflict the use of armories for meetings and requiring not less than 90 consecutive days of service to qualify for tax exemption.

SB 54, relative to utility collection practices and termination of utility service for nonpayment of charges.

SB 294, establishing minimum standards for energy conservation in public buildings.

SB 275, providing for mandatory distribution of instructions on safely installing solid fuel heating appliances.

SB 315, relative to mobile home foundations.

SB 120, relative to including investigators in the office of the attorney general in the definition of law enforcement employees entitled to additional salary increases.

SB 181, amending certain provisions of the land sales full disclosure act.

SB 171, relative to dredge and fill and the location and certain specifications of wharves and piers.

Adopted.

Recess until Friday at 1:00 p.m.

Out of recess.

COMMITTEE REPORTS

SB 337, relative to family day care. Ought to pass. Senator McLaughlin for the committee.

Sen. MCLAUGHLIN: Mr. President, members of the senate. Senate bill 337 I guess is now, rather an important bill. This bill deletes the family day care from the Department of Welfare. You wonder why it was there in the first place. We didn't understand too well but we had a hearing and we found out. What this bill is saying is that if you have a child that you wish someone else to take care of for you for the month, the week or whatever time it may be, at the present time, the person taking care of the child has to have a license. This bill deletes the part where you have to have a license, can take your children. At the present time there are over two hundred people waiting to get licenses and it is an impossible job to have the fire department make the proper inspections, the health department and so forth. It was felt very strongly by the committee that there was no need; we have this law on our books and the people testified that there was no need for licensing because you are placing your child where you want to go and you are paying the bill. None of these people paying the bill are on relief and it was thought by the committee unanimously that this ought to be under the care, custody and control of the department of welfare. People should make their own plans as to where they want to keep their own children.

I recommend its passage.

Senator Bossie moved to lay **SB 337** on the table.

Sen. BOSSIE: Senator, tell me what notice was given for this hearing that you had the other day.

Sen. MCLAUGHLIN: Oh, about as much notice as any other committee has been given in reference to these late bills on short notice.

Sen. BOSSIE: One half hour notice?

Sen. MCLAUGHLIN: No, we had a day's notice.

Sen. BOSSIE: And tell me, were copies of the bill available at the hearing?

Sen. MCLAUGHLIN: Oh yes they were, Sir.

Sen. BOSSIE: At what time did they come in? I hear there were no bills printed.

Sen. MCLAUGHLIN: I'm sorry but the bills were there; if you had been there you could have seen them.

Sen. BOSSIE: Now why don't you go through the definitions for me, so that we'll know what the definitions mean.

Sen. MCLAUGHLIN: Basically, not being a lawyer, I cannot explain all the words to you. In essence it is saying that we are eliminating the family day care home provision of some of the Department of Welfare which is not presently in control.

Sen. BOSSIE: What is the difference between a foster family home and a foster family group home?

Sen. MCLAUGHLIN: A group is six people and over.

Sen. BOSSIE: Now, why should we pass this bill?

Sen. MCLAUGHLIN: I think it is very important that we pass this bill for the people who are taking their children, and who have children and want them being cared for during the course of the day, whom they have faith in and leaving them with, rather than having those people being licensed as to how they are going to keep that child.

Sen. BOSSIE: Just who did we receive some complaints from in order to bring a bill like this. Is there a great problem in the state?

Sen. MCLAUGHLIN: We have petitions from about 500 people. People who have a problem the way it is right now.

Sen. BOSSIE: Is it your understanding right now that the number of people running or operating these homes now are licensed from the state?

Sen. MCLAUGHLIN: Not that I know of.

Sen. BOSSIE: But it would not surprise you if I told you this is true?

Sen. MCLAUGHLIN: No, I don't know.

Sen. BOSSIE: Have you made any attempt to find out?

Sen. MCLAUGHLIN: No way, Sir, whatsoever.

Motion failed.

Senator Rock moved the previous question.

Adopted.

Adopted. Ordered to third reading.

(Senator Foley and Bossie recorded in opposition to the bill.)

SB 297, establishing a unified public school system for the state. Ought to pass with amendment. Senator Smith for the committee.

Amendment to SB 297

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

establishing a study committee to study a unified public school system for the state.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Study Committee Established. There is hereby established a study committee of 9 members to study establishing a unified public school system for the state as outlined in senate bill 297 as introduced in the 1977 session of the general court.

2 Members. The members of the committee shall be as follows: the commissioner of education or his designee; the president of the New Hampshire Education Association or his designee; the president of the New Hampshire School Board Association or his designee; the chairman of the house education committee; the chairman of the senate education committee; 2 members of the house of representatives appointed by the speaker of the house; and 2 members of the senate appointed by the president of the senate.

3 Chairman. The members of the committee shall select a chairman and vice-chairman from among its members at its first meeting.

4 Compensation. The members shall receive no compensation for their service other than mileage normally paid to members of the general court.

5 Meetings; Report. The committee shall meet as often as it deems necessary at such places as it shall determine. The committee shall file a report on or before December 31, 1978 to the general court.

6 Effective Date. This act shall take effect July 1, 1977.

Sen. SMITH: It is a very easy amendment. What the amendment does is send the bill to a special committee for interim study composed of two members of the Senate appointed by the President of the Senate, Chairman of the Senate Education Committee the Chairman of the House Education Committee and two members of the House appointed by the

Speaker of the House, plus the Speaker or his designee of the New Hampshire School Boards Association, the New Hampshire Education Association and also the Chairmand of the Department of Education or his designee. That is what the bill does and I hope the Senate will go along with the amendment.

Amendment adopted. Ordered to third reading.

SB 240, permitting towns to appropriate money for day care centers. Inexpedient to legislate. Senator Monier for the committee.

Sen. MONIER: Mr. President, this bill came in during our lengthy sessions in the evening and there were questions raised by members of the committee as to whether this would open up a category of possible funding by towns and municipalities and the vote by committee was inexpedient to legislate.

Sen. BRADLEY: Is this simply permissive legislation?

Sen. MONIER: It looks to me to be permissive legislation, yes.

Sen. BRADLEY: Why can't the legislature then allow the towns to make that decision for themselves rather than saying no you can't provide funds for daycare centers.

Sen. MONIER: You're asking two kinds of questions. The answer is they can. The second answer to the second part is that the majority of the committee figured that they didn't want to.

Sen. BRADLEY: They can't do what?

Sen. MONIER: Of course the legislature can do anything they want to. You said why can't they and the answer is of course they can.

Sen. BRADLEY: Not the legislature but why can't we permit towns to make that decision for themselves?

Sen. MONIER: I'm saying the answer is that we can permit them to do this if we so desire. The committee thought they did not desire this.

Sen. BRADLEY: Do you know the rationale, or what is your rationale for feeling that way?

Sen. MONIER: I am reporting for the committee, Senator, I don't think you should make the assumption it may be my rationale, but I will tell you it is my rationale, and my rationale as a person and a member of the Senate and not as a commit-

tee chairman. It's very simple; I have watched in which we have provided this for the town. They do not have the expertise among the selectmen and among the voters and local town employees and town elected officials, in some cases, to recognize what happens down the road on some of these things. I did this once before on permissive legislation in the towns and found out that my own town was run into the ground with certain kinds of monies that they didn't recognize and before they were done they were going to wind up picking them all up. I also like to look after property taxes and this is one less place they can spend it. That's my personal rationale, the committee vote on it was, I think, 4 to 1, if I'm not mistaken.

Senator Foley moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. FOLEY: I put this bill in at the request of a person who was running a day care center in a small town. The town itself is very, very pleased with the day care center and wanted to make a small financial contribution to them. But under the present state law it couldn't be done, and she asked me if I would put in this bill so that in the future if any town or city wanted to, not had to, wanted to make some type of contribution to a day care center they would be allowed to. Now I looked up in the state law as to exactly what towns and cities can do this, and it doesn't say that the selectmen shall give it, says towns at a legal meeting shall give, so that doesn't put the onus on the selectmen and you can't say the selectmen doesn't know enough what to do and what not to do. But the town at a legal meeting may vote such sums of money as they deem necessary for the following purposes: paupers, schools, highways, lights, meeting houses, hospitals, clinics, health centers, free beds, nursing, enlistments, memorials, memorial day, armories, fires, libraries, parks, shade trees, playgrounds, band concerts, advertising, histories, old home week, weather records, physicians, detection of crime, moths, poison ivy, council, dams, town charges, insurance, veterans conventions, flood control, inductees, garbage and waste material, federal or interstate flood control projects, association dues, moving sidewalks, life and health insurance, aeronautical facilities, railroads, ambulance services, contingency funds, historical sites but no where in the law does it say if they want to, and they want to vote, they can give to

day care centers. Now maybe when these bills were done there was no such thing as day care centers but almost every town and city at the present time has them and I feel that if the town or city wants to vote and to give them an amount of money they should be allowed to do so and I so request that my colleagues look into this and that Senate Bill 240 ought to pass.

Sen. BRADLEY: Sen. Foley, I believe you missed a few more in the supplement, independence day, prosecution of misdemeanors, faulty sewerage systems, mass transportation services and very interestingly, the last one that was added was group homes which was to support our eight group houses. For the purpose of this group, a group house is an institution or home that is supervised and licensed pursuant to such a section and provides residential and counseling services to persons under the age of 21. Don't you think a group home is pretty much like a day care center?

Sen. FOLEY: Yes, except—

Sen. BRADLEY: If we ought to be able to do it for group homes we ought to be able to do it for day care centers.

Sen. FOLEY: Yes, thank you. I would also like to add, Mr. Chairman, that the time of the hearing had been changed and I went to the hearing and the people—it was changed from a Tuesday to a Monday—so I ran into the hearing on Monday and made my pitch and I thought from everything that was said there, and what was said to me, that there would be absolutely no problem. I said do you want me to bring the people from the day care centers in at another time so that you can ask them any question and the words were, no it isn't necessary. So I thought everything was great and I found out it wasn't so great and that's why I am asking you to change it.

Sen. BRADLEY: I rise in support of Sen. Foley's motion, my questions already indicate my feeling on this but I just want to add, I really can't see how people can maintain their belief in local control and local option when they aren't willing to let a town—if it wants to and if its citizens want to—vote at town meeting for this kind of thing. I can't see how anybody can reconcile their belief in local control with opposition to this bill.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Monier moved to suspend the rules of the Senate so far as to allow the introduction of committee reports on **SB 262, 270, 286, 291, 296**, with only one days' notice in the journal.

Adopted.

SB 262, creating a New Hampshire athletic trainers board. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to **SB 262**

Amend RSA 329-A:1, I as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. "Athletic trainer" means a person with the specific qualifications set forth in RSA 329-A:8, who, upon the advice and consent of his or her team or consulting physician, carries out the practice of prevention or physical rehabilitation of injuries incurred by athletes enrolled in any post secondary institution in New Hampshire. To carry out these functions, the athletic trainer is authorized to utilize modalities such as heat, light, cold, or mechanical devices related to rehabilitation and treatment.

Amend RSA 329-A:1, II as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

II. "Board" means the New Hampshire board of athletic trainers established under RSA 329-A:3.

Amend RSA 393-A:8, II and III as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

II. An out-of-state applicant must fulfill the requirements of paragraph I of this section, and submit proof of active engagement as an athletic trainer in the state as set forth in RSA 329-A:16.

III. An applicant must have attained a passing grade of 70 on an examination established pursuant to RSA 329-A:4, III for a license.

Amend RSA 393-A:10, I and II, as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. An applicant for an athletic trainer license must submit an application to the New Hampshire board of athletic training on the prescribed forms and submit the examination fee listed in RSA 329-A:9.

II. The applicant is entitled to an athletic trainer license if he or she possesses the qualifications enumerated in RSA 329-A:8, satisfactorily meets the requirements of the New Hampshire board of athletic training, pays the license fee set forth in RSA 329-A:9, and has not committed an act which constitutes grounds for denial of a license under RSA 329-A:12.

Amend RSA 393-A:11 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

393-A:11 License Expiration. A license issued under this chapter expires one year from the date of issuance. Licenses shall be renewed according to procedures established by the New Hampshire board of athletic training and upon payment of the renewal fee established in RSA 329-A:9.

Amend RSA 393-A:16 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

393-A:16 Current Practitioners. Any person actively employed as an athletic trainer on the effective date of this chapter shall be issued a license if he submits an application within 90 days from the effective date of this chapter, pays the license fee required by this chapter and is approved by the board. For the purpose of this section, a person is actively employed as an athletic trainer if he or she is employed on a salary basis by a post secondary educational institution, professional athletic organization and performs the duties of athletic trainer as a major responsibility of this employment. All certified trainers under the National Athletic Trainers Associ-

ation shall be eligible for a license on the effective date of this chapter.

Amend RSA 329-A as inserted by section 1 of the bill by correcting all section numbers to read as

329-A:1 , 329-A:2 , 329-A:3 ,
329-A:4 , 329-A:5 , 329-A:6 ,
329-A:7 , 329-A:8 , 329-A:9 ,
329-A:10 , 329-A:11 , 329-A:12 ,
329-A:13 , 329-A:14 , 329-A:15 ,
329-A:16 , 329-A:17 ,
respectively.

Sen. POULSEN: Thank you, Mr. President. The amendment is on the desk. It only changes the concept of the bill so that it applies to post-secondary schools. In other words, it eliminates high schools and below. Good bill.

Sen. BRADLEY: Sen. Poulsen, I had a chance to review the original bill because of the interest of the trainers at Dartmouth College. Now, as I understand it what you are saying is that this amendment isn't going to change anything as to what would apply to the trainers at the college.

Sen. POULSEN: To the basic concept. It moves it above high schools.

Amendment adopted. Ordered to third reading.

SB 270, relative to municipal immunity. Ought to pass. Senator Monier for the committee.

Sen. MONIER: This bill was heard, once again, in our marathon session. Sen. Lamontagne explained to the committee that this is to establish a municipal immunity from tort claims which our lawyers livelihood, arising wholly or partially from adverse weather conditions. He indicated that no city or town should be held liable for injury to person or damage arising from an accident wholly or in part to inclement weather. He indicated and I might add that there is a little satisfaction in my mind because I can remember arguing against allowing _____ from municipalities before which by common law is overruled by the Supreme Court and I indicated that you were going to wind up with tort claims for

chuck hole accidents, etc. The truth of the matter is that Sen. Lamontagne tells me that in the City of Berlin there have been several of this kind. So he introduced this bill and the committee brought it out as ought to pass and I urge its passage.

Sen. BRADLEY: Senator, do you know the outcome to those particular cases that you are referring to?

Sen. MONIER: No, I would have to refer that to Sen. Lamontagne. I would be very happy to do that. He stated to me that he would be glad to answer any questions on the floor regarding it and perhaps we could urge him to—could we have a half a minute recess Mr. President?

Sen. JACOBSON: I have a question. Not related to those specific things—Senator, do you feel that we should make municipalities immune no matter how negligent it may have been or its employees, so long as any part of the problem arose because of inclement weather?

Sen. MONIER: My answer is that when you use such terms of a continuum, as forever in all cases, the answer is obviously there has to be mitigating circumstances and the answer would have to be no. But I also don't think that we should remove every single bit of sovereign immunity from them. So I suppose that is the other end of the continuum.

Sen. JACOBSON: In fact we have restored a limited amount of liability, is that not the case?

Sen. MONIER: I'm really not sure; I don't deal in tort law, I am not a lawyer and I don't keep up with those, as to whether I can sue them or not but the truth of the matter is that we may have restored some of it but we took it all away simply on the basis, and I remember the argument, we couldn't suspend, and I can get the journal, in which the Supreme Court by precedence on common law—and we then rushed headlong to make sure that we made it statutory law, which we didn't have to do. It was admitted that we did not have to do. In this particular case, I look upon this as a case where a mayor of a city appeared before the committee, and asked for this kind of relief from municipal liability, which means that we establish immunity and I fully agreed with it and that's why the committee reported out not because I agreed with it but they all agreed with it. I might add that nobody appeared in objection to it. I don't know if Sen. Lamontagne is ready to answer questions.

Sen. JACOBSON: Let me ask you one further question.

Hypothetical, not as it relates to one individual, let's take the case of a driver who was going let's say within the speed limit, which happens to fifty-five in this particular case, but the road conditions are extremely hazardous because of freezing rain. And anybody in their right mind would not be traveling fifty-five miles an hour in those conditions. Now if we pass this bill aren't we saying that that person and the town is immune to liability because obviously the inclement weather is partially the cause of the accident.

Sen. MONIER: First, I don't think that we are saying the person is because this says no governmental unit. I don't know about the guy going fifty-five; I would agree with your statement that that's kind of foolish. I'm certainly not trying with this bill, and Sen. Lamontagne is not trying, to remove any liability from him, but I certainly don't think that somebody driving fifty-five miles an hour on ice should have any right whatsoever to sue the town. I think that's what this bill does—it takes the immunity and throws it back to the town.

Sen. JACOBSON: The problem, Senator, that I am asking you about is not the guy who is driving fifty-five miles an hour in a freezing rainstorm but the person he hits, and shouldn't that person have some rights that you are taking away from him with this law.

Sen. MONIER: I don't think I am taking any rights away from him by law. If a person, to use your hypothetical case, is driving fifty-five miles an hour on ice and he hits somebody, I don't think this law stops that person that was hit from suing the driver of the car. Now I don't see that in here anywhere at all. It says no city, town or governmental unit shall be held liable. How does that involve a person?

Sen. JACOBSON: Well, Senator, you do agree that you are taking away any right he might have had to sue the town by reason of the driver's negligence who may be an employee of the town or by definition an employee of the town.

Sen. MONIER: If that is what you are pointing at, my answer is that if I am taking that away I am glad I am. I don't think that that person should have a right to sue. He ought to sue the guy that's driving fifty-five miles an hour on ice—not the town.

Sen. JACOBSON: One further question. Then you are not concerned with the fact that the guy who has been driving fifty-five miles an hour on ice is judgment proof—got no money, no insurance and runs off?

Sen. MONIER: No, Sir, I am not concerned with it. You and I have debated that before. I do not think society is responsible for the idiocy of people.

Sen. BRADLEY: I understand this bill was put in at your request because of some cases that were brought in your city of Berlin. I was interested to find out what has been the dispositions of those cases.

Sen. LAMONTAGNE: You're talking about the immunity?

Sen. BRADLEY: Yes, somebody has brought some cases against the city. I would like to know . . .

Sen. LAMONTAGNE: Let me explain to you what happened. This was done by weather. At the airport we had a big windstorm, the planes were tied down but the wind got the planes jammed into each other—there was one plane under repair that belonged to a doctor in Maine, that was tied down, that was flipped by the wind onto its back, the wings and fuselage were damaged. Quite a lot of damage, so this was the reason why I put in this bill so that all cities and towns would be able to get immunity for weather.

Sen. BRADLEY: Has someone brought a suit in that case?

Sen. LAMONTAGNE: We are expecting one, yes.

Sen. BRADLEY: Would you believe me that your city is already exempt in that case because there is already an exception for publicly owned, runways, airways and taxiways.

Sen. LAMONTAGNE: Senator, let me ask you a question if I may. What happens now if, on account of weather, and we had possibly a sign that the city flew and hit somebody and killed somebody, what would happen in that case, that's not on an airport. This was done by weather, how would this work?

Sen. BRADLEY: Senator, if the accident is caused by weather that would be what would be called in the law an Act of God and there would be no liability because there would be no negligence and if your bill simply said that communities are not liable for Acts of God and invoked that doctrine you wouldn't need to do it, I certainly wouldn't have any objection to your bill, but your bill is that in inclement weather, all involved in the accident, no matter how negligent your employees may have been, you are asking for immunity and it seems to me that you are going too far.

Sen. LAMONTAGNE: Let me say this. I personally believe that today, I don't care what it is, nobody seems to believe in God so therefore you have to put it into the law. I feel, and I am asking you this as a question, if someone did get

hurt by a sign wouldn't they be able to sue the city after the court has taken the immunities away from the municipalities?

Sen. BRADLEY: There is no way to stop anybody from suing anybody and certainly somebody could sue you for that airport business, but it seems to me that the only ones you have to worry about are the ones that have some chance of recovery and they have no chance of recovery when you are talking about the airport and they have no chance of recovery if all that happens if wind blew over the sign. There was no person involved that was negligent.

Sen. LAMONTAGNE: I still feel you are wrong, Senator, you might be an attorney, but right now I say you are wrong. We have already gone through it and we know what it is all about. I don't see anything wrong. May I be able to speak? Mr. President, members of the Senate, the first thing I am going to tell you is that this bill that I have here—I don't see anything wrong at all. The only thing about it is that it is a safety for the municipalities, in case that the wind did cause some damages and at the same time it would be a protection for the community. Now the cities and towns did have immunity before. But as you know since they had a ruling from the court and therefore the immunity, including back in 1957 when I passed immunity for airports by creating the Airport Authority. Back in 1957 everybody in the State of New Hampshire didn't want to go along with it and so I said if that's the case I want it for my City of Berlin. You take a look a look and see how many airport authorities have been created since then. Now since we have the Airport Authorities, since the court decisions have come out and taken immunity away from the municipalities, I am only asking to put into the law where the cities would be protected against the weather. I don't think I am asking much. But in the meantime it means a great deal of protection for the municipalities.

Sen. SANBORN: Sen. Bradley, I didn't quite get the section of the law which you were quoting. Sen. Lamontagne would you repeat it to me. It sounded like very short and concise areas of the airport were available.

Sen. BRADLEY: The present limited immunity for the municipalities is that they may be sued up to \$50,000 for negligence arising out of ownership, occupation or maintenance of premises, but excluded from premises are public sidewalks, streets, highways and publicly owned airports and runways and taxiways.

Sen. SANBORN: You say the runways and the taxiways. How does that include the area where the airplanes are parked and tied down? Those are two separate areas where planes are moving if that airport is in operation. Is it not?

Sen. BRADLEY: I guess you point out—your point is well taken. There are apparently parts of the airport where one could be held liable if one does something negligent on that part of the airport if one causes injury. If the injury is one described by Sen. Lamontagne where it is really caused by the weather is not going to responsibility on the part of the town. I have no objection to having this bill, but if the weather is the legal cause of the accident then the town isn't responsible, but the way it is written if the weather had anything at all to do with the situation, no matter how negligent someone may have been it has complete immunity and I think that is wrong.

Sen. SANBORN: Senator, to get away from the airplane, taxiway, runway, parkway etc., as you know we have had some pretty heavy snow this last winter and then it warmed up suddenly. I'm trying to get a definition relative to your streets in there. I am thinking of a quiet highway in a small town and down at the bottom of the hill there is a culvert. And because of the sudden warming up of the weather the pond beside it is now overflowed onto the road and has washed out the culvert. Now you can't see that the culvert is washed out because there is water moving. Somebody comes driving down the hill, sees the water in anticipation that the culvert may still be there, goes through, and lo and behold, the culvert is no longer there and he breaks the car, because of the gouge in the road.

Sen. BRADLEY: It may or may not be, but it is certainly classified as a highway and that's one of the things that was also exempt, yes, streets, highways and so forth. The answer to your question is, in my opinion, clearly the case you describe is one in which there is already complete immunity.

SB 270 is on second reading and open to amendment.

Sen. BRADLEY: I move that this bill, **SB 270**, be indefinitely postponed.

Sen. BRADLEY: I'll just be brief. I recognize the problems and the questions. The legislature following the time when the

Supreme Court did away with sovereign immunity, in what I consider to be a poetical resolution of the problem where everyone had their say and their arguments, agreed pretty much on the particular provision which we now have on the books which was put there and was passed in 1975. It is a rather limited liability, top limit of \$50,000 and excepts all the usual kinds of things people worry about, sidewalks, streets, highways and in this case also airports. I don't think that that needs to be tampered with. Now this bill, to the extent that Senator Lamontagne worries about, accidents that are caused in the legal sense of the word, by the weather without someone's negligence, he doesn't have to worry; there is no liability for that right now. What his bill does, and I'll read it, says if the weather has anything to do with the accident at all, no matter what you and I would say is the real cause of the accident or a jury, there is going to be immunity and it seems to me that's an unnecessary extension of the law.

Sen. LAMONTAGNE: I rise in opposition to the motion. I personally feel that this bill would be a very simple bill and didn't know it was going to have such a debate and be such an important bill. I think that Sen. Sanborn has brought out a very good point. When he mentioned about the weather especially with all the water that can be caused by the weather and then having an overflow, enough that the water would go beyond the sidewalks and destroy some property and the water which is caused by the weather, certainly with the way that the laws are written, and the fact that the immunity has been taken away from the municipalities, I thought this was a very good point. This bill is not going to hurt anybody; it may stop some attorneys from cases that he might be defending; that's the only thing this bill possibly might do. I think it is a protection for the taxpayers of the city or town.

Sen. BRADLEY: Senator Lamontagne, would your purposes be met if the bill were amended by striking out the reference here to in part, which is a result in part to inclement weather, would you be satisfied if your bill says that you have immunity arising from an accident, the result wholly of inclement weather? Would that satisfy you?

Sen. LAMONTAGNE: Let me say this, this bill has been looked over by city attorneys and they have told me that this bill is correct, and I don't see any need for any amendment.

Sen. Bradley withdraws his motion.

Adopted. Ordered to third reading.

(Senator Saggiotes in the chair.)

Senator Monier spoke under rule No. 44.

Sen. MONIER: Members of the Senate, British Earl Clarendon once said that "the law is a standard and guardian of our liberty. It circumscribes and defends it but to imagine liberty without a law is to imagine every man with his sword in his hand and to destroy him who is weaker than himself and that would be no pleasant prospect for those who cry out the most for liberty." To this I would like to add, their rights as well. Last weekend, some two thousand people, most from out of state, invaded illegally the private property of the Public Service Company at Seabrook. We are all aware of it. Their objective was clearly and publicly stated. It was not subject to compromise by them. The intent of this group was to violate the laws of the State of New Hampshire by occupying illegally the site until all construction of the two billion nuclear power plant was halted. The illegal occupation of private property was not a matter in which the sincere philosophical beliefs of nuclear power advocates were in conflict of those who in equal sincerity, support alternative energy sources. This was instead, a well-organized, coldly calculated and well executed assault upon the legal institutions of this sovereign state and by projection to all governments by the Clamshell Alliance—sort of an amalgamation of lawless-minded individuals for the express purpose, the express purpose I repeat, to violate the laws of our state. Few will challenge the assertion that the great strength of our system lies in the free exchange of ideas, positions, and beliefs as projected through and by our constitutional legislative process. We are actually doing this today in our differences of opinion. Who will challenge that truth that our weakness would be for elected and appointed officials to condone lawlessness in whatever form or cause it seeks to flourish within. The laws of New Hampshire make no exception in the applicability for providing provision, that when breached by a mob or any assembly, stating its intent to break the law that they will be differently treated or leniently enforced and pros-

ecuted than when committed by any one individual. The State of New Hampshire did not shirk their obligation to uphold our laws and our government by law. Lawlessness, in short, did not prevail at Seabrook. The Clamshell Alliance and its cotiere of unlawful and lawless-minded supporters, failed to fulfill their mission of illegal occupation to force upon due process their particular and collective desires. Construction at the plant resumed promptly at seven a.m. Monday morning as scheduled. More importantly, the message was delivered throughout the nation, that New Hampshire's institution of law will not be perverted by unlawful action, no matter how well disciplined or how peaceful. By deliberately charting such a course, the Clamshell Alliance and its adherents placed upon the citizens of New Hampshire an unconscionable financial burden. Latest cost estimates run over \$30,000 per day and depending on where or who you are listening to, it can be as high as \$50,000 per day. For this state to maintain and process the 1414 lawbreakers that were associated with the Clamshell Alliance and who were arrested at Seabrook. I have watched this body bleed on the floor in their ripsawing of the Governor and their flaming support for such actions which they know full well to be illegal. It is small wonder that we have 1400 plus activists who have nothing else to do—such as hold jobs, finish their schooling and carry on productive daily occupations now residing in our custody. Those within the state that do not have the time nor the inclination to assemble such illegal actions. These lawbreakers are products of the affluent. They can afford their sleeping bags, their backpacks and tents and paraphernalia. They do not represent the poor, they represent instead illegal trespassers who seek by unlawful action, to accomplish what their sponsors, the Clamshell Alliance, has decreed what must be done. I think that it is time that someone bleeds just a little bit for the taxpayer, the lawabiding citizens and those who believe in government by law not by the lawless. These protesters are now quartered, fed, bathed, and looked after by New Hampshire society and the taxpayers who did not invite them. If there was a way, I would certainly recommend that they be confined, after proper judicial and legal processes and work off the costs that they have placed on the the New Hampshire constituency. Such work, I would further recommend, should be in the most isolated parts of the state where the TV media and the other news media would find it less sensational and there would be

more black flies. It should be spartan labor and worthwhile labor—cutting brush, cleaning up streets, picking up litter and general efforts of this type. I might add, also, where we could find the most black flies. Yesterday a spokesman for the Clamshell Alliance—and incidentally it is not yesterday, it was two days ago, had a suggestion for the costs of the daily care of \$30,000 plus. I offer one also. Since the Clamshell Alliance publicly has admitted that they are responsible for the silly action I hope there is some way that can be found to sue the Clamshell Alliance to recover the costs for the taxpayers of the state. Parents have been calling as to how they can get their children bailed out and back to where they belong. I have one answer for them that I would like to make public. You should have known where they were going and that they had deliberately gone there to break the law. This whole situation is an atrocity and the taxpayers and decent working family people of New Hampshire are suffering and paying for it. I hope all of them, the voters, remember those of you who are supporting this deliberate, unlawful disruption of government.

SB 286, revising the pharmacy laws. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This bill revising the pharmacy laws was brought about by an incident in Nashua. Because of the lack of quality in the pharmaceutical laws of our state the police nor the Board of Pharmacy could not move to resolve the situation. They worked closely with the Federal Drug Administration. With their help they were able to do it. So that this won't happen in the future, the Pharmacy Board has introduced this bill, updating the laws. I would like to read an analysis of their purpose for doing so. Those changes introduced by this bill are basically word changes needed to enhance legal interpretation, enforcement and so forth to clarify specific action which can be taken by law enforcement officers and the Pharmacy Commission and its representatives. Other word changes will modernize New Hampshire law and in some cases bring New Hampshire law in line with federal standards. At the present time, New Hampshire Pharmacy Commission is a regulatory board without very much authority with the enforcement of RSA 318 and in the best interests of public health and safety. In the bill there is an increase in

the per diem for the commissioners and also in relation to fees. I spoke to the chairman of senate finance yesterday, and we believe that under Rule 24 it will be referred to Finance.

(Senate President in the chair.)

SB 286, referred to finance under rule No. 24.

SB 291, permitting a local option to adopt property tax exemptions for property improvements and rehabilitation. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate. this bill provides that the town meeting may set up the means by which rehabilitation can be achieved through exemption of the property tax. It is a very innovative bill and one in which I think we should take the time to have Senator Keeney explain in some detail. It is a terrific bill.

Sen. KEENEY: The intent behind this bill is to encourage the municipalities themselves to provide a means by which an individual property owner can rehabilitate their own areas. There is a similar bit of legislation in Connecticut on which this was further changed so that it would fit the thinking in New Hampshire, and that is local option. It is definitely a local option bill; initiation can come from a board of selectmen, planning board, or residents of a particular area through a warrant article or through their board of aldermen or local council of a larger municipality. The idea behind it is that in many cases where you have a residential area, I'll use that as an example, you have a deteriorating situation where the people there are the least able to make renovations. In order to do so they need help. The community itself can easily identify these areas and it would allow, when the individual property owner agrees to certain rehabilitation of the properties, that they would be allowed deference on the assessment that would be added because of the added values as they renew their properties. The deference could spread over a period not to exceed eleven years and they would pay a portion back each year until they had made up the total deference.

Adopted. Ordered to third reading.

SB 296, relative to the expenses of the division of municipal

accounting for in the performance of its audit functions. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, I am not quite sure what the finance committee is going to think of this bill but it proposes to expand the audit capabilities of the Division of Municipal Accounting by allowing cities and towns to pay directly to the Department of Revenue Administration and that same department would be allowed to set up a separate account specifically for this purpose and enabling them to expand and increase their audit capability to the cities of the town and state. That looks to me like it would require setting up a special fund which I know the legislature in the past has not been too favorable toward.

Adopted. Ordered to third reading.

SB 298, abolishing county government and transferring its functions to appropriate state or local governments. Ought to pass with a recommendation for Interim Study by Executive Departments. Senator Monier for the committee.

Sen. MONIER: Members of the Senate, we have had several bills dealing with this. This is the most interesting one as far as the committee is concerned because it talks about abolishing it. We have also had a bill in from Senator Bradley, I believe it was, offering a form which we have talked about one way or the other. We feel that this has such far reaching effects and with the agreement of the sponsor we recommend that it be sent to interim study to the executive departments administration with a report to be provided back to the Senate at a future time with respect to county government. I hope that you will support this amendment.

Adopted.

SB 299, authorizing the establishment of municipal development districts. Ought to pass. Senator Hancock for the committee.

Sen. MONIER: I think I will defer this to Senator Hancock. The journal seems to have my name after all of these and

actually this is not the way it was so if it comes up I will defer to the one assigned to it.

Sen. HANCOCK: Mr. President, members of the Senate, I have introduced this bill at the request of the city manager and the economic development director for the city of Concord who believe that creation of municipal development districts for the purpose of placement of public and private property would be made possible through this legislation. If the act is accepted by a city and a district is created, payment for the public portion of a commercial project can be made through tax increment financing. Improvements in the district to such services as water, sewer, sidewalk construction or reconstruction, together with land assembly and construction of parking facilities can be paid for by pledging tax increment to repair the general obligation bonds which are used to finance the improvements. General obligation bonds issued up to 30 years maturity are not counted in the municipal bonding limit of the city. Once the bonds are issued for a district the project cannot be enlarged for five years. No project can exceed six acres in size and 5 percent of the total assessed value of the municipality. Federal and state funding may be combined with city funds for a project and I think that the city of Concord anticipates that federal funds are going to be possible for this process in a short time. The local governmental body has control over the financing plan and the tax increment computation of the project and also determines how the project is to be administered. This can be by assignment to existing city departments or authority by the formation of a separate corporation to manage the project. When a district is formed the taxes assessed at that time are frozen and continue at the same level to pay for the normal city services. New taxes created by the new construction are dedicated to the redemption of the bonds issued to create the project. I understand that this is a system which has been successfully used in Minnesota, Ohio, Nebraska and California. The city of Concord is intent on upgrading its downtown area, particularly the commercial area which is now in decay and the city government feels that this would be a device which would be helpful in achieving that purpose.

Adopted. Ordered to third reading.

SB 301, relative to the qualifications of planning board

members. Ought to pass with amendment. Senator Brown for the committee.

Amendment to SB 301

Amend RSA 36:5, III as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

III. One member of the planning board, in cities, towns and village districts, where available, shall be a person actively engaged in home building or land development.

Sen. BROWN: Mr. President, SB 301 states, this is with amendment, that a builder or anyone engaged in land development will be a member of the planning board. The amendment says wherever possible because in each and every town there is not necessarily a land developer. In testimony, there was a member of the Manchester planning board who had been a member for fourteen years. He said they had passed this in Manchester and that there had been either a land developer or home builder on that board for seventeen years and he stated that they had been a tremendous help to them; they understand the problems because a lot of people on the board are not necessarily informative.

Sen. BOSSIE: Is there anything in this amendment which would preclude any member of the planning board from voting on any matter under consideration if they were to have a conflict of interest?

May we interpret this to mean that any person on the planning board may not vote for anything that may be in their own personal interest or for which they may stand to gain monetarily?

Sen. MONIER: I don't see anything in this bill and I would hope that they wouldn't gain by it; I think that's a matter of ethics.

Sen. PRESTON: Senator Brown was not an example of that brought out at the hearing that in the city of Manchester that a home builder or someone in that capacity has been serving on that board for years in fact his expertise added to it and never created such a problem?

Sen. BROWN: Yes, it did, it resolved numerous problems.

Sen. HANCOCK: I think that it would be a great mistake to

adopt this proposal. As you know now planning board members are either elected or appointed by the board of selectmen. In long years of experience in meeting with local planning boards I have found that the selection made in general, has been most successful and adequate over the long run. I think if you are going to get in the position of determining that you want a land person on the board then you could go to the next step of wanting a lawyer, an engineer, a landscape architect, and so forth. I think that we make a big mistake in tying the hands of the selectmen or the electorate in trying to determine what discipline should be represented on a planning board.

Sen. MONIER: Senator Hancock, would you hold to that same concept in all boards and commissions?

Sen. HANCOCK: Yes I would.

Sen. MONIER: Then you would be unhappy with a lot of the ways in which our state boards are made up.

Sen. HANCOCK: Yes I would definitely.

Sen. ROCK: I rise in opposition. I have been in the Senate for seven years. Year after year it has come in that the home builders and developers are the bad boys of this state; usurping all the land, creating all kinds of problems. I firmly believe that if a home builder or planning developer was on the board that they could have a great input as to what is going on. They are accused, and I think falsely, their input to the other members of the board, the enlightenment that they really are not the bad boys that they are made out to be.

Sen. BOSSIE: Senator, would you have any objection if subsequently I make a motion to put this on the table so that I could have an amendment which would not only allow this to be; because perhaps you are right. As I was talking with Senator Preston, we don't want to stack the deck either way—would you have any objection if I proposed an amendment to yours which would provide that any individual on the planning board that has a conflict of interest shall in all instances excuse himself or herself?

Sen. : No not at all. I am mainly interested in their being on the board to get their input and to clarify problems that come up, that the members are not qualified to answer or to deal with. Would you make sure that that amendment also includes within it that the conservation member who now has to be appointed to the planning board would also not vote on issues of conflict?

Sen. BOSSIE: If the Senate should be so wise or just as to put this on the table, I would make this apply to all members of the planning board. I mean a direct personal interest to them, members of their family—then they should excuse themselves in that interest. I don't think that is too much to ask.

Sen. BROWN: I thoroughly agree with what you're saying Senator Bossie, I'm not arguing about your putting it on the table. I am asking though, how would you get around the fact that we currently have a requirement that a conservation member be on the planning board. Obviously as part of that question, he is there for the express purpose of representing certain interests.

Sen. BOSSIE: Right. I have no problem with them representing an interest as long as you aren't being paid for it or the land which you are proposing to plan for is adjacent to your million dollar property that will be worth three million dollars. I don't think that is a proper way to act and if anyone is on the planning board doing it now I think it is unwise and I think that any of the decisions if they are close enough could be set aside on that. I think this would apply to all members. If they are conservation members and ecologists there is nothing wrong with that. Or if they are members of the building industry there is nothing wrong with that as long as they don't have a personal interest and they'll get rich by acting on something.

Sen. : Well I think first that we ought to vote on Senator Hancock's motion because, you take a look around my district, I don't know about Senators Bossie and Brown who have bigger towns—I would be hard pressed to find a home builder or real estate development person in my area available for the planning board. You go along and someone says I'm available and that means that one of those five slots are all of a sudden filled by someone who says, I'm available. I really think when you talk about home rule and all the things we talk about to sit here and say that we are going to say to the planning board it has to have anybody on it, including the conservation member, I didn't even vote for that one. I don't think that one is right. I think Mary Louise is right, that we let the process go and they let who they want on the planning board. If the town of Harrisville wants seven ecologists on the planning board that's their problem. We talk about not mandating and not doing things to foul things up and along comes a bill like this.

Sen. TROWBRIDGE: I don't think it's whether the person is available but whether the person is available in the community.

Sen. : Is there anything in the law which excludes the selectmen from appointing a builder now?

Sen. TROWBRIDGE: Well, only if they have an elected planning board. That would exclude them from appointing anyone. There is nothing that excludes a home builder from being on the planning board in either event. Senator Brown has a good point—Norman Davidson is the only builder that we had in Dublin and he has gone out of business. He used to come to the planning board meetings and tell people, inform them and do everything he could to help out. It's not as if this advice is not available. This way you're doing things like they did in New York where all the judges had to be Irish.

Amendment adopted.

Senator Hancock moved that **SB 301** be indefinitely postponed.

Senator Lamontagne moved to lay **SB 301** on the table.
Adopted.

SB 302, relative to the time for completing improvements of subdivisions for vesting rights thereafter. Ought to pass with amendment. Senator Preston for the committee.

Sen. PRESTON: Mr. President this bill extends the exemption for changes of subdivision regulations and zoning ordinances from three to six years, except for those changes affecting public health or water quality. I understand there will be another motion and amendment to this but if there are any questions I would be happy to answer them.

Senator Monier moved to lay **SB 302** on the table.
Adopted.

HOUSE MESSAGE

The House has voted to non-concur with the Senate amendments to the proposed Joint Rules and requests a Committee of Conference.

The Speaker has appointed Reps. Marshall French, Griffin, Chambers, and Coutermarsh to a Committee of Conference on Joint Rules.

Senator Rock moved that the Senate concur in the establishment of a committee of conference.

Adopted.

The Chair appointed Senators Rock, Smith, and Downing.

SUSPENSION OF RULES

Senator Monier moved that the rules of the Senate be so far suspended as to allow the introduction of committee reports on **SB 326, 50, 330, 331, 333, 335, 336, 349, 353, 357, and 321** with only one days' notice in the journal.

Adopted.

SB 326, defining the term "inhabitant" for purposes of certain elections. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill comes under the category of another one of the election reform bills. It expands the definition of inhabitant for making the determination of a person's eligibility to vote in a community. On the second page of the bill, section 2, this is entirely new and indicates that the voter must prove their domicile in the town. It was the feeling of the committee it should be brought out on the floor and be passed over for further study by Representative Conley's committee on election reform.

Adopted. Ordered to third reading.

SB 50, relative to restructuring the public utilities commission and making and appropriation therefor. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, in general I think that state agencies are responsive to the consumer needs of the public. I think in the case of the Public Utilities Commission, through the years, they have been remarkably unresponsive. I think that it has taken leadership by such organizations as voice and the leadership of the legislative utilities council to bring to us a much needed piece of legislation. I think that SB 50 is a much needed reorganization of the public utilities commission. I do not pretend to know all of the intricacies of that legislation but I have read it to the extent that I certainly hope that this body adopts it. I recommend its passage. I expect Senator Rock will speak on it but if there are questions on it I am sure he will be glad to answer.

Sen. ROCK: This bill is a result of two years of study by the select committee. It is the work of scores of meetings, conferences, and we hope that the senate will allow SB 50 to pass. It is expected because we again are faced with that bind of getting things out of legislative services. I know there are several house sponsors on the bill and there will definitely be a good house hearing. I could take three hours of your time and tell you what went into the make-up of the bill but suffice it to say that I hope you will support the changes that we are recommending in this bill. It has an appropriation that goes to finance.

Sen. POULSEN: Mr. President, members of the Senate, I respect all the time that has gone into this bill and I did not want to come out with a report inexpedient to legislate but I would just like to caution that this is a radical change from what we have been accustomed to. I don't think we should unfairly indict the existing Public Utilities Commission. This bill, as comprehensive as it is, was heard in the three, four hour evening session with perhaps the other bills. There are Arthur D. Little studies done in the past recommending a beefing up of the present PUC which would have made it much more responsive and though other states have done this I'm not of the feeling that we need to imitate what other states do. Thus we were the last to implement the products liability law or something like that. This is another one of the bills that we are passing into the house; I do so with a lot of reservations and sometimes a consumer bill like this can cost the consumer a lot more money suggesting five well paid commissioners. I don't intend to vote and I don't intend to do so today. I reluctantly let it go through without much

scrutinization and if you want to see something frightening I urge you just to look at pages 11, 12 and 13 of that bill and if you understand them to vote on them you are doing a good job.

SB 50, referred to Finance under Rule No. 24.

SB 330, relative to protests in zoning ordinance change. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill handles the protest procedures for zoning regulations that are amended at the town meeting and makes it; sets up a procedure where the protesters list names and all—they have to comprise a certain percentage of the population of the area affected and the distance and it gives a twenty-four hour notice that their petition must be delivered to the selectmen or moderator before the town meeting and sets up a procedure where the what it is working against.

Sen. TROWBRIDGE: As a fellow moderator I applaud the sponsor and the committee for this action to know what is coming.

Sen. KEENEY: I would like to just speak briefly. I am very much in favor of this bill having had an experience this past March where such a petition was presented to the selectmen about six night hours before the town meeting was to open the next morning; having to go through the petitioners name to verify etc. and then go through the land holdings. At least twenty-four hours would help.

Adopted. Ordered to third reading.

SB 331, relative to rehearing on zoning board of adjustments decisions. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, this is another clarification of the rehearing process in zoning cases and it merely adds that the board of selectmen shall hold a hearing within thirty days after receipt of the petition.

Adopted. Ordered to third reading.

SB 333, establishing a department of transportation. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President, this senate bill 333 which establishes the Department of Transportation gets its usual 15 minutes that night. There are several people who appeared that are unhappy with parts of it; there were several people who appeared who were happy with the concept of it. I speak as an individual Senator, not as a member of the committee, am pleased finally with the idea that we are trying to put transportation in one place. I don't think quite frankly that anybody has had a chance to analyze the bill. I recommended to the committee and the committee voted to approve it, that we bring it out, pass it, put it over to the house where it has two months in which they can deal with it. I strongly suggest that that is what we do. I have no way to defend parts of it and I don't think anyone can tear apart parts of it simply because they are looking at who wrote the bill or where it came from rather than the meat of it. As a result of it and since I do feel strongly that transportation in the State of New Hampshire is a hodgepodge. It is caused in part by the Public Utilities Commission, part of it is over in transportation authority, part of it is involved with a series of grants which come from seventeen different agencies. At the present time we have department of transportation money coming into the state and there is no way that this material is now coordinated within the State of New Hampshire. Its got to be coordinated before we're done someplace. I look upon this as a vehicle. I think that it could go over to the House, put in interim study and we could find some way by which we could begin to look at the problem as a transportation framework rather than individual departments each grabbing for the same amount of monies; each doing the same things in which buses and transportation facilities are following each other around. It is a waste of our time and money and on that basis, and that basis only, we recommend that this bill be passed to the house, have two months—I suspect that there it will be chopped up, heard properly and put to interim study.

Sen. TROWBRIDGE: Senator, on page 8 of the bill salaries of these people look like they're changed. Is that true? The commissioner of transportation—that's a new salary, is it not?

Sen. MONIER: I think that the establishment of a job, Commissioner of Transportation would be a new job—

obviously. And therefore new money. I don't think that there is any question that it ought to go to senate finance if that is what you are asking senator.

Sen. ROCK: Senator Monier I haven't read the bill in its entirety, can you tell me if there are any study plans to take care of how this is going to be done or is it just going to be done?

Sen. MONIER: It is just going to be done and that is part of the problem that we are having. I think that there is a report on reorganization within it and indicating a restructuring department that would be done under that commissioner. The commissioner of transportation is on page 4, shall report to the 1979 General Court such recommendations for the further reorganization as he deems necessary and expedient.

Sen. ROCK: The reason I asked the question senator, in the work done over the past two years on SB 50, we delved into that a little bit and it is a very complex, cumbersome and involved, difficult problem—just saying we are going to do it isn't going to do it. That's why we recommended that in SB 50 an ad hoc consultant be hired so as to give us some guidelines as to how to get there rather than to just ride down the road without a roadmap on a transportation bill like this.

Sen. MONIER: I thoroughly agree with your Senator, I was not appalled but a little bit upset that the framework that was provided to us in this bill, and I might add three days before our deadline, appears to have within it a shell from which I do believe that a shell is necessary. The concept of a department of transportation I formally advocate. I also recognize fully the problems of complexity with rail, under the PUC, department of transportation monies, authority of transportation and so forth. I personally believe that some detailed analysis would have to be done in order to structure this. I suggest as I said before put it to the house for two months and at that point develop what needs to be done, and we might well at that time end up with an interim study on it.

Sen. ROCK: Knowing that the PUC spends fully as much time on who's going to pick up the garbage in Jaffrey as they do on whether or not the coal generating plant in Bow is being operated efficiently bothers me. But I would hope that senate finance, and I would propose this amendment in senate finance, recommends that this bill goes to interim study with an appropriation to hire some qualified people to establish a de-

partment that is put together right, you would consider supporting.

Sen. MONIER: Senator Rock I already told Senator Trowbridge that I agreed with him on this one—the idea of proposing a shell, putting forth a framework of various departments, a consolidation is something I strongly support and I have already said why—I could take a day to reiterate and explain—There is waste, there is excess numbers of people dealing with a particular, specific aspect, each one under a statute that probably existed at different periods of time and that we certainly need this reorganization. I am welcome and willing to accept this kind of a shell. I don't and I say this publicly, I don't think we should appoint a commissioner at this point until we find out what kind of a commissioner he is going to be. I think that interim study is where it should be.

Sen. PRESCOTT: Senator Monier, some emphasis was placed on buses, I would like to the members of the Senate to know that this is an all-encompassing bill, takes over all the authorities of the ports and harbors, for example, all the functions, powers and duties of the Department of Public Highways and I certainly wouldn't want our action today condoning what is suggested in here. It is a very important bill with a lot involved.

Sen. MONIER: Would you believe that I thoroughly agree with you that we should not in any way allow our actions here, or allow our disclaimers or the fact that there is not a specific plan, to eliminate the fact that this needs to be done. There may be a need to take a hard look at it and do something but I haven't read this to the extent for everything in it.

SB 333 referred to Finance under rule No. 24.

SB 335, relative to the establishment of a division of graphic services. Ought to pass. Senator Monier for the committee.

Sen. MONIER: I don't like the title but what it does is attempt to put together the results of a printing study that was done last year and completed and passed out. It is a known fact that New Hampshire spends an excess amount of money in its printing requirements. The amendment which I believe has been offered, acts also and adds a roman numeral clause that all legislative printing within the capabilities of

graphic services shall, particularly during any legislative session, have priority over other work of the division and I would certainly support this if it comes through. The idea here is to establish, once again, a supervisory control over all state printing, graphic and copy facilities with the exception of state police. As such it would provide a central place and a central coordinating function so that state printing would not be parceled out all over the state by different people at different prices even at open bidding and so forth. It also puts under the control of this kind of coordinating agency all of the state printing facilities. Before anyone asks, no the state prison is not interfered with and it would be used essentially the same way it is used now.

Sen. DOWNING: I would like to offer the following amendment and it has been distributed to all members of the Senate. The amendment is self-explanatory Mr. President and Senator Monier just alluded to it. All legislative printing within the capability of the division of graphic services shall, particularly during any legislative session, have priority over other work of the division. That is part of the statute now dealing with printing and it wasn't included in the bill and I thought it was an important thing to have included because when we need it printed we need it printed. I urge you support the amendment.

Sen. HANCOCK: The same conditions obtained through this piece of legislation or proposed legislation as obtained through the transportation or correction departments, the rest of these reorganization proposals. There hasn't been an opportunity really to have the concerned persons heard and I know from first hand experience that the printing situation in the state is in horrendous shape. There is too much being asked of the DRED print shop, the conditions under which they work, the resources which they have to carry out their duties. The prison print shop, which at one time was a very adequate facility has deteriorated and I think that many of us here have not had an opportunity to review the study report which was done through the Governor's office some time ago. I do truly believe there is a need for a centralized graphic services or printing department. I do think, however, that we ought to give careful consideration of this when and if we adopt such a system. For example, it is ridiculous that copy centers which are as essential to an office now as typewriters be centralized even in the point of view of control. That photography

facilities be centralized in that respect. I think there are some inoperable passages in this bill and I certainly hope that we will have ample time to look at this bill more carefully before it becomes law.

Sen. Downing: Senator in this reorganization, I noticed there wasn't any job consideration or protection for the individual who presently runs the department and I was wondering if that was a consideration in committee at all?

Sen. MONIER: No there was not. There is nothing in here that eliminates any job and it is going to finance because it has a transfer of funds within it.

Senator Downing moved the following amendment:

Amendment to SB 335

Amend RSA 8:55 as inserted by section 1 of the bill by inserting after paragraph IV the following new paragraph and renumbering the original paragraphs V-VII to read as VI, VII and VIII respectively:

V. All legislative printing within the capability of the division of graphic services shall, particularly during any legislative session, have priority over other work of the division.

Amendment adopted. Referred to Finance under rule No. 24.

SB 336, relative to home warranties. Ought to pass. Senator Monier for the committee.

Sen. MONIER: There were two bills in the committee, one was SB 284 from Senator Provost and SB 336 from Monier, Brown and Rep. Granger of Merrimack, Hillsborough District 13. This is an agreed upon bill. It has been through all the necessary people who have been involved with it, from the planning agencies to the committees to the Home Builders Association to the sponsors and so forth. It started out as state's bill to redress some wrongs that had occurred in the forms of what I call crash developments and the people being left without any recourse when the developer takes off. While we like to use the developer as such most of us know

that some developers do not have that kind of a problem and while we cannot take care of in a sense redressing of an of a state, we have been determined for two years to try to find some means, individuals who buy homes have some form of protection from slipshod or bad building, improper foundations, bad septic tanks and so forth. Early this year with Attorney General Funk who is in charge of the consumer division, with the New Hampshire Home Builders Association and the sponsors and so forth, and Senator Trowbridge is on this bill I might add. We have now got an agreed upon bill which provides for the first time, and I think most importantly, the citizens of the State of New Hampshire a home builders warranty guarantee. It requires a minimum amount of money from the developer which is kept in escrow on each lot in each development; it provides a means by which it has recourse; it provides a means by which the towns would keep an audit to keep track of the funds and it provides a safeguard for the people for two years from now or a year from now from finding their septic tank suddenly no longer works. It is a start; it is not part of the lands full disclosure act because it shouldn't be. It should be a consumer-kind of protection device but not in the sense that the consumer has everything and the person that's trying to use private enterprise to provide him with something wonders if he has to end up buying liability insurance. It is a home builder's warranty initiation; it is an agreed upon bill and I urge us to pass it and those who do vote for it ought to take credit for it.

Adopted. Ordered to third reading.

SB 349, granting zoning powers to the Lower Bartlett water precinct village district and ratifying the annual meetings of the Lower Bartlett water precinct village district for 1976 and 1977. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President this is a bill that I'm sure would have been entered into the house if it had been earlier; it was entered too late to be a house bill; it was entered as a senate bill. It had a short hearing—I have no objection to the bill nor can I fully support it. I would like more imput on it and if the Senatewere kind enough to pass it it would receive a lot kinder treatment in the house than it does with us.

Adopted. Ordered to third reading.

SB 353, permitting the expenditures of certain unanticipated revenues pursuant to the municipal budget law. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, from time to time communities are enabled receipt of funds that were not anticipated such as CETA funds, public works programing funds and so forth. This bill would allow the selectmen to receive and expend revenue received after the annual town meeting.

Adopted. Ordered to third reading.

SB 321, establishing the office of state negotiations. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill establishes the Office of State Negotiations and authorizes the Governor and Council to appoint a state negotiator. Senator Smith is the sponsor of this bill. Perhaps he would care to add to it. This is to be referred to finance, there is an appropriation with it Mr. President.

Sen. SMITH: What this bill is is a fairly modest appropriation establishing the Office of State Negotiations—someone can be hired to do the work of a negotiator for the state. At the present time this has been delegated to the head of the Department of Education, Dr. Brunnell, because evidently way back when, he had some dealings in regards to negotiations and he feels and I think many do, this needs some full-time professional work being done on it and it is interfering terribly with his functions as it would with anyone who is assigned to the job. I hope the Senate will go along with it and it can go along to finance.

Referred to Finance under rule No. 24.

Senator Trowbridge moved to take **SB 300** from the table. Adopted.

SB 300, relative to the registration of unauthorized dams. Senator Trowbridge moved the following amendment:

Amendment to **SB 300**

Amending RSA 482:2-a as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

482:2-a Unregistered Existing Dams. Upon written notice from the water resources board, the owner of an unregistered existing dam shall submit an application for registration of said dam to the water resources board. The application shall provide such information as the board may require to determine whether the dam is a menace to the public safety. In registering any such dam, the board may order the owner thereof to make any repairs or undertake any reconstruction which the board deems necessary for the public safety. Such work shall be undertaken with a time period fixed by the board.

Amend RSA 482:2-b as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

482:2-b Existing Dams on Great Ponds. Upon written notice from the water resources board, the owner of an unregistered dam on the outlet of a great pond shall comply with the provisions of RSA 482:2-a. The board after 30 days notice to abutters, to the governing body of the municipality in which the dam is situated, to the fish and game department, and to the department of safety, shall hold a public hearing, notice of which shall be published 7 days before the hearing in one newspaper of general circulation throughout the state. If, as a result of said hearing and further investigation, the board shall be of the opinion that management and control of the outlet of the great pond would be of benefit to the public, it may order the management of said outlet under whatever conditions it finds necessary to protect the public rights and safety; provided, however, the owner shall be fully compensated for any loss sustained by action of the board with respect to a dam which was previously registered or legalized.

Amend RSA 481:2-e as inserted by section 1 of the bill by striking out same.

Sen. TROWBRIDGE: While the amendment is being passed out, as you may recall last night we had the situation where at least under the explanation that we had people were trying to—the bill was trying to say that anybody who had unauthorized dams should register—but they didn't know

who was unauthorized so how would you inform the person who is unknown and how would he know—so I laid it on the table. I talked to Vern Knowlton and he has conceded there is no way to know and inform them that it is a misdemeanor so that the language here in the beginning of each section now says that upon written notice from the Water Resources board, the owner of an unregistered dam shall register so the burden is on the department to find the owner. The first part of the bill deals with the little dams on streams; the second part on existing dams on great ponds is the one that they're really concerned about. They control the flowage and then on compensation there was a thing in there saying that if they did anything to a person who had a dam on great ponds and changed the rules on them they would have to compensate the owner. Well we have changed that on page 2 to say you can compensate the person if you change the rules on them but only if he was previously registered or legalized. If he was legal and he thought he was doing it all legally and now they want to change the rules they have to compensate but if he was illegal in the beginning you shouldn't have to compensate him for doing something that was illegal in the beginning. So Mr. Knowlton agreed with that. And finally we took out that last sentence saying RSA 482-2E and by striking out same is the penalty section stricken out so there are no misdemeanors cause we can't tell about that. Mr. Knowlton is agreeable to this amendment and I urge its adoption.

Sen. SANBORN: I have just one little problem here. You say that there are unregistered dams that nobody knows about?

Sen. TROWBRIDGE: Well, they don't necessarily know the exact ownership because they may have been put up in 1850 and you would have to run down the deeds, who had the flowage rights and who it was transferred to and so forth. By getting title search you could find it out I suppose. I just was concerned when they said we don't know who owns them; who can you inform them; put the burden on them.

Sen. SANBORN: In other words, we do know of all the dams in the state? The way it sounded I got the impression that there were dams in the state that we didn't even know they existed.

Sen. TROWBRIDGE: Well, the first part of that bill which is the easy part which just says you register with no penalty; those are the ones which someone might put up by a stream.

They have to register those and they don't necessarily know all of those; because they are happening now and no one registered them but as they find them they give them notice and say hey, you have to register. They'll find the dams that's not the problem.

Sen. : Senator I don't find here perhaps it shouldn't be here, the mechanism to do anything with a dam on a pond that has over the years had an association that comes and goes. In that case, who would register it if at the moment there is no association.

Sen. TROWBRIDGE: Somewhere in the legal title to the flowage rights, which is normally where the dam comes in, someone owns it. You can trace that down. If the association isn't there successor entitled to the association would own it. Someone owns it and if no one owns it then they can come in and claim it for the state. But normally someone owns it.

Sen. SANBORN: If the ownership cannot be proved then it can be wished onto the state?

Sen. TROWBRIDGE: Not under this bill but under the other sections of the law, whoever last owned it is still liable.

Sen. SANBORN: A dam was built and maintained by an association which was there then but now isn't. My question is there is no ownership as far as I know either of the dam or the land except by pure landowners.

Sen. TROWBRIDGE: Well, then what I think that what they would be trying to do here is to find that situation out, find that there is no one in charge and get a resolution to find someone who is in charge, the state or the town; someone has to be in charge because the downstream people are in danger. So I think partially that's what they are after. To make someone in charge somewhere.

Sen. SANBORN: Thank you.

Sen. KEENEY: Senator Trowbridge your amendment sounds very reasonable, but somehow this all started when you asked me how the Water Resources Board was going to find the dams and know who owned the dams and now your amendment puts the burden on them of finding the owners to the dams. So I am asking you how they are going to do it.

Sen. TROWBRIDGE: What they do—they have an inventory of every dam in the state but they have some like your Gilmore pond which you did before, in other words my amendment is only on one part of this bill. The whole point of the bill is that when they find a dam that was never formally

legalized, by the legislature on a great pond, they now have to bring a bill in. The whole point of this is that they do know who owns it. This gives them the authority to legalize the dam without bringing a bill into the legislature. They know essentially where the dams are and who owns them but they ought to be given authority to go back and sort of formalize their legalization. That's what you're really doing.

(Senator Saggiotes in the chair.)

Amendment adopted. Ordered to third reading.

SB 194, to permit the state to accept the retrocession of jurisdiction in and over the Veterans Administration hospital in Manchester, New Hampshire. Ought to pass. Senator Jacobson for the committee.

Sen. JACOBSON: This bill relates to the Veterans Administration Hospital in Manchester. This is an area of 34 acres with 8 buildings and it is now in the process of completing a new nursing home and the cost of about \$3,000,000 for a 120 beds. It presently has a 6.5 million dollar payroll and it is projected for next year to be a 7.8 million dollar payroll. It has a 150 bed hospital at the present time. Interestingly enough over 60,000 people visit the hospital in the outpatient department in a year which is a considerable sum according to the testimony. Now what this bill does is it allows concurrent jurisdiction with regards to law enforcement. At the present time this building is totally under federal jurisdiction including all law enforcement so that if a burglary took place only federal police can be involved. If there were to be some sort of a protest they could not call in state or local police. At the present time there are 5 hospital guards employed and they are distributed over the 24 hour period so that there is a minimum of police protection. What the Veterans hospital wants is to have retrocession which means that state and local police will have concurrent jurisdiction over the enforcement of the law. This concurrent jurisdiction procedure has been adopted in 44 states and it is under consideration in 12 other states including New Hampshire. Only in the state of Delaware is it not under consideration and the reason being is that the facility in Delaware is so tiny. What this does is permissive legislation—it allows the governor to establish retrocession. It does not establish retrocession by itself. Apparently

the legislature cannot establish retrocession by itself. It must be the governor according to the federal regulations. So what this does is it permits the governor to enter into an agreement of retrocession which will establish concurrent jurisdiction over the Veterans hospital.

Sen. LAMONTAGNE: Mr. President, does that affect the Manchester police department?

Sen. JACOBSON: It could affect the Manchester police department if retrocession is established and the officials at the Veterans hospital ask them to come in and help them in a law enforcement session.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Poulsen moved to suspend the rules of the Senate so far as to allow the introduction of committee reports on **SB 278, 280, 281, 282, 322, and 340** with only one day's notice in the calendar.

Adopted.

SB 278, relative to exempting certain motor vehicles from motor vehicle registration fees. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this exempts school buses that are leased to schools as well as those that are owned and operated by schools. It just adds them to the list of vehicles that can have state plates.

Adopted. Ordered to third reading.

SB 280, relative to motor vehicle inspections. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the Senate, what this bill does is if a person is out of state at the time that he needs to have an inspection, it gives him or she 48 hours after returning to this state and gives them a chance to get to an inspection station. Right now there have been officers who have been arresting people who have been coming from

out of state to New Hampshire. As you know this is a record against the individual. This 48 hours would give them the opportunity to get to a garage. As you well know that if you come from out of state and you come into this state especially on the weekends, it is impossible to find a garage where you can get an inspection sticker.

Adopted. Ordered to third reading.

SB 281, restricting the length of certain loads on trucks. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, I am not sure but what these bills should have had the same suspension of rules on the number of days, I am not positive that they had the full number of days so that it would be safe or proper to accept a motion to legalize these bills in that manner?

This bill prohibits trucks from carrying cargo over the front end that goes further forward over the front bumper. It's been used to prohibit the practice of loading pole-length logs both ways on a truck, butts ahead and behind, over the trunk and causing a certain amount of damage to trees, road signs and so on. This can still be done, like moving a flag pole, with a permit, but it makes it illegal to have an load extend more further forward than the front bumper.

Sen. BRADLEY: You mean to tell me Senator Poulsen that you now have something that is opposite to the front of a truck bumper?

Sen. POULSEN:

Sen. McLAUGHLIN: Doesn't this apply to vehicles which carry cars to a parking lot. Isn't it a fact that on these car carriers, that the forward car, is located over the tractor front and sticks out over 6 to 8 inches?

Sen. POULSEN: Senator McLaughlin, I don't think that it intends to do that and if that is a problem I would go just along with over the bumper.

Sen. LAMONTAGNE: Mr. President, let me say this, if a car is over the bumper then it is overlength; he can't do it anyway under the federal statutes. Right now, what this bill does, is it restricts it to the front bumper and Senator Poulsen said if there is five or six inches then certainly that bumper can be extended, but it cannot be extended over the 55 feet length.

Sen. : Is it not correct at the present time that all car carriers that are carrying 7 and 8 cars on them are in violation of the law at the present time? Which means if this law goes through you probably will carry one less car which is going to make the transportation cost for transporting cars into the State of New Hampshire cost more money.

Sen. LAMONTAGNE: I don't see where it's going to make any difference Senator, the car under this law here, it says, no cargo will be transported that is beyond the front bumper. Mr. President, members of the Senate, I know it may shock some of the members, but I am the sponsor of this bill. I have sponsored this bill for the state police who have measured as much as 14 feet beyond the front body and knocking down signs as they have been trying to make these corners. What this does is restrict loading beyond the front bumper of the truck. Now they can turn around and haul wood, or any kind of cargo but it can't go beyond the front bumper. I say that this is reasonable and at the same time is a safety measure.

Senator McLaughlin moved to lay **SB 281** on the table.

Adopted.

SB 282, relative to the use of binder chains on certain motor vehicles transporting construction equipment. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the Senate, the reason I have introduced this bill, at the same time it has the approval of the committee, about to pass is about 5 or 6 weeks ago, on the main street here there was a tractor that was not tied down; not secured to the bottom. The tractor fell off. The engine was running and it was very fortunate that that tractor did not get into gear when it fell. Because if it had, I don't know where it would have landed. Now there have been many people who have been transporting equipment and they do not secure a tractor or it can be hauling a grader or it could be hauling a backhoe, and I have seen many of them, they do not secure; so therefore this is another safety measure. You have to have two chains, no less than 3/8" or greater and to secure this piece of equipment to any trucks that are hauling this piece of equipment.

Sen. SANBORN: Senator, I remember your 73 bill relative to securing lumber and wood products to a vehicle. Should I anticipate that by the 79 session that you will have a bill in here saying that it can be piano wire or something else so there doesn't have to be a $\frac{3}{8}$ chain.

Sen. LAMONTAGNE: Senator let me say this, I don't plan to but there are some plans that this bill is going to be amended in the house because a $\frac{3}{8}$ wire would also take care of it just as well if not better than a $\frac{3}{8}$ chain.

Sen. SANBORN: If Senator Poulsen may remember, in the 73 session, you brought in allegedly a $\frac{3}{8}$ inch chain.

Sen. BRADLEY: As you remember you and I co-sponsored that bill as they were arresting all the people who had on nylon strapping instead of chains. Now why don't we include nylon strapping and all the other kinds of things in there?

Sen. LAMONTAGNE: I don't see any harm in amending the bill to include these strappings as long as it can be to secure any of this equipment on these bodies of transportation.

Sen. BRADLEY: Do I understand that you plan to put on such amendments in the house?

Sen. LAMONTAGNE: I wasn't but it has been brought to my attention and I promised that I would appear before the house with the amendment and I would be glad to include strapping as you and I have co-sponsored before.

Adopted. Ordered to third reading.

SB 322, relative to four-lane highways and rights of ways. Without recommendation. Senator Poulsen for the committee.

Sen. POULSEN: This is a bill submitted by Senator Trowbridge and has to do with the layout of four-lane highways, which are the big roads of New Hampshire, no two-lanes which are your town roads. It outlines procedure that has to be followed for the taking of land or the location of such roads, or the widening of such roads to that size by adding one more step to the process and that is the step of bringing the layout back to the legislature in the form of a bill and having it approved by the legislature before such a road could be built. This was a surprise, in fact one of the examples used was the

Franconia Notch, to make that into an interstate type thing or widening it beyond passing lanes and such. The layout would have to have gone through all the preliminary moves and all that business and then still come back to the legislature for approval before the highway could be built. I'll refer to Senator Trowbridge if there are any questions.

Sen. TROWBRIDGE: Mr. President, you will recall that SB 113 of last session when we were talking about the highway toll situation. People were saying well it's okay to have jurisdiction over tolls but it really doesn't do too much good if we only approve the tolls and don't approve the highway itself. So I was encouraged to sort of bring the bill back again because I've always thought that something as big as four-lane highways should have approval of the legislature. Certainly we have the approval of any other projects in the state, why should that be different? In SB 322 all it says is that if land taking is for a four lane highway, the commission which would be set up under the regular statutes, the governor and council now sets up a commission. In that hearing it adds a few other things that they have to look into such as public support and impact of growth and that kind of thing, which they would look into anyhow, and then it goes through the regular governor and council process. If the governor and council turn it down it doesn't go anywhere. But if it does and it is over 150 feet wide of land taking, and they have approved it, then it has to come to the legislature and pass both houses. And that's really all it does. Just think of all the problems we have had. I think Senator Lamontagne was the one who asked the question, you said will this hold up highway construction? Commissioner Clemons will tell you now that if you started a four-lane taking now, it's six years before you actually lay any concrete. The process is so long now, and part of the process is so long because every suit and thing can be stalled, certain groups of people feel perhaps the highway is needed. There isn't any public policy statement made by the legislature saying that it is the public policy of this state to have the big road. So in this procedure we have now, the last part of SB 322 says that once it has been approved by the legislature, then at that point, further suits, are forestalled. In other words, you can go forward, you've had your day in court, you've had your argument in the legislature. It is the final decider and at that point you can't be delayed forever. So rather than saying this is going to hold up construction I think

this will speed up construction in the long run because you'll certainly have two legislative sessions within the process that this would go through. I think that we certainly can find now, especially as we see an interchange being built in Merrimack for which there has been no legislative approval yet. And things like that going on—I think it's high time, and I think the sentiment of this senate is, "hey let's take this into our own court," don't knock out the governor and council approval the way they have now because they are primarily responsible as an executive branch but put legislative approval on top of it. I think there is a good deal to be said.

Senator Poulsen moved that the words "ought to pass" be substituted for the words "without recommendation."

Adopted. Ordered to third reading.

SB 340, relative to the state motto on motor vehicle number plates. Without recommendation. Senator Poulsen for the committee.

Sen. POULSEN: I would like to defer to the sponsors of the bill, Senator Monier and Senator Rock. The bill substitutes the words "In God We Trust" for the caption "Live Free Or Die" on the license plate.

Sen. ROCK: I introduced this bill because I was very concerned with the Supreme Court ruling that allows a complaining couple to botch up their license plate to cover up the state motto. I am not in any way indicating that it is my intention to take the state motto off the license plate. As a matter of fact I would feel much more comfortable if it were on my senate plate. I can't understand why it isn't. It's on the governor's plate but not the senate plate. I think Mr. President, the bill is a little insurance that should the supreme court or someone else, this legislature, or some executive should decide that this motto shouldn't be on the plate anymore, that's the day that my concern begins. Should that happen, this bill would replace the state motto with "In God We Trust". Frankly, that is done in a sense to, if you will, for someone to challenge that and take that to the supreme court and see if they will remove that from the license plate. And if they remove that from the license plate then they have to remove it from the

currency and that certainly ought to be quite a donnybrook. And that's why I introduced the bill.

Sen. BRADLEY: Senator Rock, do you have any reasonable expectation that the placing of this motto on the license plate would be upheld than the placing of "Live Free or Die", was upheld?

Sen. ROCK: Frankly, Senator, I would like to see somebody challenge the taking of that off the license plate. I think that challenge would bring this country to its senses and if that challenge would begin to awaken some Americans as to really what is happening today with the laws that are being made by our courts. I welcome that, I would like to see if someone would challenge that.

Sen. BRADLEY: I guess you assume that because you can't put or force someone to put that motto on their number plates, then that would mean that you would have to remove it from the coins?

Sen. ROCK: If the day came, and I frankly Senator, fear that the next step is that that motto is going to be forced off the license plates by the courts. I think that will happen. I don't want to see that happen. I may just be presuming something that will never be. That's my fear at that time. When they do senator, they are going to have to put "In God We Trust" back on if this bill passes. And then I want somebody to challenge that on the license plate.

Sen. BRADLEY: Count on it.

Sen. ROCK: If an atheist doesn't believe in it, they haven't challenged it on the coins.

Sen. BRADLEY: Don't you think there is quite a lot of difference between publishing something on the side of your vehicle, both ends of your vehicle which you drive perhaps all over the country as well as in the State of New Hampshire and walking around with some coins in your pocket which happen to have some printing on it?

Sen. ROCK: No I don't senator, that's my point, that coin I worked for and I earned and it's mine and I can use it to spend it. It is the currency of the country that is in my possession it is mine. The license plate, I think in the same sense is mine, I realize that it can be taken away for certain things but so can the coin, but there is says "In God We Trust" on it and atheists and supreme court judges who don't believe in the things that I think this country believes in, carry it around, and they have to carry it, you can't live in this country today

very well, I suppose you can—in the Mojave desert and eat rattlesnakes—you can't live very well without it. You've got to have it with "In God We Trust" on it.

Sen. BRADLEY: Senator, how many people of the general public do you think have been able to read the printing on the coins in their pocket?

Sen. ROCK: Probably not the ones in my pocket but the ones in their pocket.

Sen. SMITH: Senator I'm a little confused by this effective date. Now it says here that the act will take effect only if the state abandons the requirement that the state motto "Live Free Or Die" and so forth. What do you mean by abandon? Now the supreme court has said that you don't have to have this on your license plate, "Live Free Or Die".

Sen. ROCK: My understanding is that you may obliterate, cover,

Sen. SMITH: That's correct. If that happens, is that considered abandoning it?

Sen. ROCK: No.

Sen. SMITH: Only if the state administratively decides to take it off. Eliminate it from all plates.

Sen. ROCK: Or is forced to take it off all plates by the supreme court.

Sen. SMITH: You know we have been through the argument on "Live Free Or Die" and the majority didn't seem to agree with the motto in that "Live Free Or Die" mandating be on a license plate is flying in the face of what the meaning of the motto is.

Sen. ROCK: Senator I think that's a logical question, we are not arguing that point. My bill says that its the step beyond that.

Sen. SMITH: Are we then mandating that everybody believe in God by putting that on their license plate?

Sen. ROCK: I know all lot of millionaire atheists who don't believe in God but they use the money.

Sen. SMITH: Now if a person now believes in God but may object because of religious beliefs of having that on his license plates.

Sen. ROCK: Then he will challenge that in the courts. And the courts will rule, if its the same supreme court, with its 5 to 4 decision, that you have to take it off the license plate. And now the question is do you have to take it off the coins. And that's what I'm getting at senator, I want to challenge that

issue. And this is the way, nobody wants to challenge it their way but this is the way they'll have to challenge it.

Sen. SMITH: Do you think senator that it is worth having this bill go into effect, having it go to the United States supreme court and then finding, I don't know how the court will rule on it, I don't think Senator Bradley has told us, and I don't think he would dare tell us, but I think that there are many possibilities. One of which "In God We Trust" be stricken from everything put out.

Sen. ROCK: Wake up America.

Sen. SMITH: The second alternative that it is off the license plates but its a very different thing having it on coins. Now is the supreme court says it has to be stricken from the coin and from paper, isn't this a pretty expensive, inconvenient sort of thing to have happen?

Sen. ROCK: I'm hopeful and I pray when we get that far, they'll realize really what they're doing and they'll stop.

Sen. LAMONTAGNE: Senator, believe me, I am 100% with you on the bill but I'm just trying to find out whether or not there might be an easier way to handle it. I haven't had the opportunity to get legal advice; is it possible to take these people who do not want to have this motto on their number plate, "Live Free Or Die" to put it into the special license plates where they have to pay \$5.00; "Live Free Or Die" would not be on those license plates.

Sen. ROCK: I have no answer for you on that Senator.

Sen. LAMONTAGNE: If it is possible and legal to charge these people where you can get a special plate for \$5.00 in addition, without the motto, would that be possible?

Sen. ROCK: I guess so.

Sen. LAMONTAGNE: Number plates would be made, and under the law, isn't it so that you can't cover the plate?

Sen. ROCK: You're missing the point senator. The Maynard step was the first step. Their step was that they didn't want it on their plate so they obscured it, somebody tomorrow is going to file in court that that doesn't belong on the license plate at all. And they're going to win.

Sen. LAMONTAGNE: Course they're going to win.

Sen. ROCK: And that's what bothers me. Okay? Now everybody has to pay \$5.00 for a special plate to put it back on again. If I read what you're saying correctly, the minority has forced the majority in the position of doing something that they don't want to do. Take it off the plate. And I don't want

to pay \$5.00 to put it back on. So I guess I would have to say that I don't want them to pay \$5.00 to take it off. If I were a teacher, then I have the perfect way to get prayer back in school. Every morning we're going to have a class in economics and every morning we're going to have a kid take a coin out of their pockets because they all have a coin in their pocket. Very few of them go to school today without folding money in their pocket. Okay students we're going to have a lesson in economics and we'll start today. Johnny what does it say on your quarter? He's going to say "In God We Trust". It's the most beautiful prayer in the world. And let the supreme court say you're teaching religion. You're not reaching religion you're teaching economics. What is that Johnny? That's a quarter. What will it buy? It'll buy an ice cream cone; whatever it will buy. But it says on it, "In God We Trust." Isn't that nice?

Sen. LAMONTAGNE: Well, senator, I've got your point now. You're just trying to bring a point to the courts so that they will have to rule.

Sen. ROCK: Right.

Sen. LAMONTAGNE: In other words, you're not out to solve the problem the easy way you want to go to court and

. . .

Sen. ROCK: Let's go right to the heart of it.

Sen. BRADLEY: After it gets appealed to the supreme court and thrown out as it certainly will, what would happen, there is no chance in my opinion, that the supreme court would allow the State of New Hampshire to put "In God We Trust" on its plates any more than it allows us to put on vote republican or any other motto or slogan like that. You can't enforce that kind of thing on people. Now the question I have is, when and if "In God We Trust" gets thrown out—will you try another motto like "Wake Up America"?

Sen. ROCK: I'll tell you senators, we have had a few gambling bills in here and we've talked about casinos and wagering so I guess it's alright to talk about gambling on this floor—I'll betcha this quarter that when that challenge is made in taking "In God We trust" off the coins, cause they're going to have to take it off the coins if they take it off the license plates, you're going to see something you never saw in this country, and I'll bet you a quarter they never take it off of that license plate.

Sen. TROWBRIDGE: Senator I'll feel a little worried when

it gets to the supreme court, and the court being as active as it is, they're going to say, not only can you not have "In God We Trust" on there but they're going to say how about "Scenic New Hampshire" and they're going to put that right back on our plate, now wouldn't that be nice?

Sen. BOSSIE: Senator Rock as one who did support this "Live Free Or Die" motto on our plates last year or the year before when a motion or bill was presented to take it away, and at the same time feeling that one has to have respect for the decisions of the courts of our country, why is it necessary to have such a bill as this? To consider an alternative motto when in fact in order to get the motto that we do have on our license plates taken off it would take an act of the legislature because we are the ones that put it on and we have the right to take it off don't we?

Sen. ROCK: No, I think you're absolutely incorrect. It would take an act of the supreme court to take it off. And you would have no say about it because your rights as a legislator are overwritten by the supreme court decision. You as a lawyer should know that.

Sen. BOSSIE: I don't know if you know what I'm asking you. Sen. ROCK: And the supreme court is going to take it off.

Sen. BOSSIE: No, they didn't say that—they said you can cover it up if you want to—they didn't say you had to take it off.

Sen. ROCK: That's because that's what the case was.

Sen. BOSSIE: Well, my question to you is, the legislature put it on and if we ever decide to take it off, and on the regular plates that are on my automobile, under my senate plate I have it on there. And if I want to take that off, other than to block it off, it would take a legislative act, would it not?

Sen. ROCK: No. If the court should rule, the legislature could take it off. But beyond that the court could order it off and this is for when that happens or in either case it happens.

Sen. MONIER: The point with the bill, and I say we, because we're both on it, is that if someone does take it off then this must put it on. Is not not the question you had from Sen. Trowbridge exactly another reason for the bill, that if the court were to rule on "In God We Trust" that this would be, I forget exactly what it was, but we would be forced to do this, is this not correct, that's exactly what we are trying to point out with this bill?

Sen. ROCK: I guess you could get by with the license bill if all you had was NH and a row of numbers and it was green. You don't need NH or Scenic New Hampshire, you don't need "In God We Trust", you don't need anything. I think it's a nice thing to have some sort of motto on there and the motto we have I am fully satisfied with.

Sen. MONIER: The only thing that this bill does with regard to, dissolving all the rhetoric, is if the court or legislature does take it off then "In God We Trust" will be put on.

Sen. BROWN: Senator Rock isn't this piece of legislation nothing more than supposition?

Sen. ROCK: Its prevention as well as supposition.

Sen. BROWN: Have you heard any scuttlebutt or administrative decision to take "Live Free Or Die" off of the plate.

Sen. ROCK: Senator Bradley just confirmed my bet that somebody is going to make that challenge. I'm sorry senator—he challenges the other.

Sen. BROWN: Let me ask that question again, have you heard any scuttlebutt or administrative decision that we are about to remove administratively or legislatively the motto "Live Free Or Die"?

Sen. ROCK: No I have not.

Sen. BROWN: Have you heard of any court case which may eventually wind its way to the United States supreme court which will make it mandatory that that motto be removed from the plates?

Sen. ROCK: No. But then we only meet every two years and anything could happen in the interim.

Sen. BROWN: Don't we have special sessions?

Sen. ROCK: Only at the call of the majority or at the request of the governor.

Sen. BROWN: If there was such a proposition coming before the courts or an administrative decision don't you think that there would be plenty of lead time so that the legislature could take some kind of action?

Sen. ROCK: There might well be senator.

Sen. BROWN: If that is the case do you see any reason for having this bill?

Sen. ROCK: Yes I do. And the reason I see it is because I would like the rest of the country that is looking at us now and saying, Ahah, New Hampshire is in a bind on their license plates, to know that we have taken a positive step or even stronger motto to replace this one.

Sen. BROWN: If the supreme court did hand down the decision can you guarantee me that this piece of legislation would take care of whatever was said in that decision?

Sen. ROCK: Obviously no.

Sen. JACOBSON: Thank you Mr. President. First of all, as everyone knows, for three sessions I tried to put "Live Free Or Die" optional on the license plate. And for three sessions it died in the senate, we gained a couple of votes in the upward direction. Now as all of you know I'm not a lawyer, however, as I understand the Maynard case, and I talked with Mr. Maynard himself, he opposed "Live Free Or Die" on the plate on religious grounds. That it offended his free practice of religion. He happens to be a Jehovah's Witness. And the Jehovah's Witness, some of them, do not like the connotations of "Live Free Or Die" in terms of their theological inclinations. It was on that basis that he taped over the plate, he was arrested by the Lebanon police for defacing the license plate. The process went along and went all the way to the United States supreme court. And the supreme court upheld him with respect to his religious freedom. They said that the "Live Free Or Die" motto was not of the essence for the identification of the automobile and therefore he could in fact, tape it over, or in some other way erase "Live Free Or Die". Now the net effect of that court decision is to make the requirement in the present state statutes null and void. It does not remove the as far as anyone who objects to the "Live Free Or Die". It does not go to the question of whether or not the plate shall continue to carry "Live Free Or Die". Now my bill did exactly what the supreme court decided. And so the law of the land, and although I am not a lawyer, case law is oftentimes more important than statutory law. For once made by the supreme court no further objection can be made to it until such time as the constitution of the United States is changed in some manner. So if at the present time the net effect is to make it optional. Now as to the requirement or the opportunity to completely take it off, I would have to disagree with Senator Bradley that there would have to be a further problem with respect to those who don't object on religious grounds. And apparently Senator Rock and other members of the senate support it. They want it and do not object even on religious grounds. The same thing is true of scenic New Hampshire—you have to find some kind of constitutional grounds on which to object. Now it would be true that if "In

God We Trust'' were to be put on the plates an objection could be made on religious grounds by those people who could indicate that they do not trust in God or they never did trust in God. So as I see it, and again I am not a lawyer, that is the process that would have to happen. Now I'd like to give my personal testimony if I may and that is I have trusted in God all my life. As a small child I was inculcated in the Swedish covenant church. In fact I learned my religion in Swedish. My parents taught me Swedish by reading the bible, a chapter a day. I am perfectly willing to give my testimony of Christian faith at any time and at any place. However, I have never been of the opinion that I should wear my religion on my sleeve or I should wear it on a license plate or I should wear it on my money or anyplace else. Because that doesn't mean a hill of beans. It is what's inside the heart that counts. And it is a matter of the heart, as Jonathan Edwards said, that makes religion important. And that's been that ever since the beginning of religion. As far as I am concerned the "In God We Trust" can be on the coin or it cannot be on the coin and I have been teaching economics for nineteen years and I have never referred to the motto incidently. I think what this bill is doing is anticipating something that is never going to happen as far as I know. I think further that we should never try to impose one's own religious opinion upon someone else. In fact that is article 1 of the Constitution of the United States. Some of you happen to be Roman Catholics, some of you happen to be Presbyterians or Congregationalists or whatever you are and that's your right, freedom and I would fight to the very last moment to protect your religious liberty. On the other hand I think that I and every other citizen in New Hampshire should be entitled to practice their religion freely and not have something imposed on them. The problem with our money is not "In God We Trust" at the moment, whether the motto is on or off, the problem is that it is worth less and less every day. And what is going to create chaos for this country is, what Professor Samuelson at MIT, one of the most renowned professors in economics said, is stagflation. In which we are going to have rising prices, rising inventory, rising unemployment and a currency that becomes less valuable day by day. I would like to see every legislature in the country including the congress of the United States who doesn't understand this very clearly I think, to really go after this problem so that we can get a legitimate return in goods

and services for the exertion of human effort. Because that's the principle. In the old days we had a barter system where we exchanged goods—that's too complicated to do today. We introduced the money system and so that all of us who work or receive pensions or any other funds or incomes like Senator Smith who receives his money from dividends and interest and that—we use that income for money. Money itself is worth absolutely nothing except for what it will buy. Unless you're like Silas Marner who took his money out of the bag and flipped his coins around and got a charge out of flipping his coins around, most of us are not in that place. And today, Silas Marner would take his checkbook out and his savings books out and get a thrill out of looking at the numbers. As far as I am concerned those numbers mean nothing except what they'll purchase in goods and services for me and my family. So I think what we're really dealing with is an issue that is fundamentally a non-issue at this moment with respect to this bill. Because I think unless we are faced with an issue and we go along encouraging people to make challenges we are going to be worse off. I'd like Senator Rock to be happy; we are firmly behind his plate and I don't care whether there is "Live Free or Die" on the plate, I'm not going to erase mine, but for those people that have a real problem and it's not essential to the well-management of government, let them put the tape over it and that's where we are right now.

Sen. ROCK: Senator you referred to the Maynards objecting on religious grounds to "Live Free Or Die" and that was the basis for their case and that's why we wound up in the supreme court on that. Following through, could you explain to me how you could rationalize them obliterating, covering up, obscuring and all the other words "Constitution State" when they believe so much in the constitution and they went down to some other state that has on their license plate "Constitution State" and they obliterated that too? What religion is there in that?

Sen. JACOBSON: There is none that I know of senator.

Sen. ROCK: Were you aware that they did that?

Sen. JACOBSON: No I was not aware.

Sen. ROCK: Knowing that now, if you would believe me that they did that, do you really think that their's was a religious reason in New Hampshire?

Sen. JACOBSON: I cannot vote to inquire into the interior

of the hearts of the Maynards but that is the basis on which the issue was fought.

Sen. MONIER: Senator Jacobson, you are a very eloquent economics professor—would you believe if I had some coins to jangle I would feel a hell of a lot happier.

Sen. ROCK: Would you like to see mine?

Sen. MONIER: I would love to. . . I thoroughly agree with what you are saying. On money, and on the coins, but would you believe that there are some people that think and I am not assuming that you are only thinking in terms of money, there are some of us in this country who feel that there are other things that are being eroded, that we feel are just as strongly needed; just as desperately needed to be brought to the attention of the people and if the supreme court and other courts have eroded those just as our lack of paying attention to proper economics, have eroded our money values.

Sen. JACOBSON: Oh, I certainly agree with you and if you want to cite some examples we could discuss that.

Sen. MONIER: I won't cite any examples, but I will tell you that Senator Rock and I happen to feel that the business of the supreme court making these kinds of decisions is an erosion of values just as the lack of decision by the federal government is an erosion of our economic dollar.

Sen. JACOBSON: Senator I cannot agree with you though I respect your opinion. The erosion of fundamental values will be accelerated by these kinds of actions. I think the erosion of fundamental values comes from our failure to have it as an integral part of the hearts of our lives in terms of such questions as morality, honesty, liberty, justice and sound economics.

Sen. MONIER: Would you believe that I thoroughly agree with you and that's exactly why I helped and signed this bill. Because, senator, if I allow something that I feel strongly is a necessary value for the greatness of our country, as you and I both do as regards to the economics of our country, then I would be derelict in my duty to myself within my heart if I did not protest it in some form and this bill does exactly that, it's a protest against what has happened in the supreme court in cases like this.

Sen. JACOBSON: Well senator I think you and I along with other members of the senate, sponsored a bill on parental responsibility. And I believe in parental responsibility but there are plenty of people in New Hampshire who are driving

around the state with "Live Free Or Die" who are irresponsible and the fact that they have it on on a plate does not in any way make them responsible.

Senator Poulsen moved that the words "ought to pass" be substituted for the words "without recommendation."

Senator Preston moved the previous question.
Adopted.

Senator Monier requested a roll call.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Monier, Rock, McLaughlin, Sanborn, Provost, Brown.

The following senators voted nay: Smith, Bradley, Bergeron, Jacobson, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Preston, Foley.

9 yeas 12 nays

Motion failed.

Senator Smith moved that **SB 340** be indefinitely postponed.

Senator Bergeron moved that **SB 340** be laid on the table.

Division vote: 11 senators voted yea. 10 senators voted nay.

Adopted.

(Senate President in the chair.)

SB 157, relative to regulation of carnival-amusement equipment by the division of safety services. Ought to pass with amendment. Senator Preston for the committee.

Amendment to **SB 157**

Amend RSA 321-A:4, as inserted by section 4 of the bill, by striking out same and inserting in place thereof the following:

321-A:4 Decal Required. No person shall operate a carnival or amusement ride without a decal issued by the director. An operator shall apply for a decal to the director on a form

furnished by him and containing such information as he may require. All carnival or amusement rides shall be inspected by the insurer, as provided in RSA 321-A:7, before they are originally put into operation for the public's use and thereafter at least once every year. No such decals shall be issued by the director until proof of adequate insurance on each such ride, as provided in RSA 321-A:5, III, is certified by the owner or operator to the director.

Amend RSA 321-A:5, I, as inserted by section 4 of the bill, by striking out same and inserting in place thereof the following:

1. In addition to any other registration requirements imposed by law, all carnival or amusement operators doing business or intending to do business in this state shall annually register with the director, except that this chapter shall not apply to any such operator regulated under RSA 225-A or who operates his business in a regular and fixed location. The fees for such registration shall be established by the director in compliance with RSA 541-A.

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Appropriation. The following sums are hereby appropriated to the department of safety, division of safety services for fiscal years 1978 and 1979 for the purposes of this act. The governor is authorized to draw his warrant for said sums from any funds in the general fund not otherwise appropriated.

	Fiscal 1978	Fiscal 1979
10		
Permanent Personnel Services	13,000	13,000
20		
Current Expense	1,000	1,000
25		
Operation Safety Building	1,400	1,400
30		
Equipment	4,000	
50		
Other personnel services	4,000	4,000

62		
Benefits	1,800	1,800
70		
In-state-travel	2,000	2,000
80		
Out-of-state travel		
90		
Other Expenditures	1,823	3,443
Total	29,023	26,643
Estimated source of funds:		
General Fund	29,023	26,643
Total	29,023	26,643

6 Effective Date. This act shall take effect 60 days after its passage.

Sen. PRESTON: SB 157 is a piece of legislation sponsored by Senator Smith and it concentrates on a problem that has occurred and may occur more frequently in the future. As it now stands in relationship to the carnivals that come into the state and various pieces of equipment, we really don't have any evidence that these are safe devices that the youngsters, adults, and those that attend carnivals are using. We have a decal that is issued by the Department of Insurance which really indicates proof of insurance. It has been mistaken often for an inspection sticker which it is not. This bill would place the responsibility now in the director of division of safety services who would inspect carnival equipment and also there would be proof of insurance to go along with this. The bill does have an appropriation for expenses, personnel, operation safety building and travel. So it undoubtedly will be referred to finance but it is well needed. There have been accidents—recently there was one that occurred in Bedford because the equipment had evidently not been well maintained and not inspected by anyone in the state. This should protect those people who are enjoying themselves. There are some changes that have yet to be made and I shall bring them to the attention of the finance committee because there was a suggestion that there should be \$1-3 million in liability and it is recorded here as \$300,000. I would urge the passage of this bill and we can place the amendments in the other committee.

Sen. SANBORN: Senator I understand that this will be going to finance as you stated. However I believe that I am

among some of the others that appeared relative to this bill and in favor of it but did request that no where in the bill could I find the place that said this amusement rides would be inspected each time they would be erected which can be as often as, I think I pointed out to the committee, that many of these rides torn down and erected weekly. And along towards the end of the season, I think I pointed out to the committee, that some of the safety pins and so forth that hold the equipment together and so forth—they still put them up without regard to the safety pins and devices. Was there any provision made to see that these rides would be inspected weekly?

Sen. PRESTON: There was not Senator Sanborn. Yours is one of the two or three points that were overlooked. This calls for the inspection of at least once every year. Your point is a good one. The problem was—the mention of local inspectors and perhaps the liability it would create for the Deerfield Fair or the town or whatever it was and we honestly did not have time to take that into consideration. Yours and the suggestions of the Insurance Department should be incorporated into this bill in some way.

Amendment adopted. Referred to Finance under rule No. 24.

SB 354, relative to investment of funds of certain fiduciaries. Without recommendation. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this fiduciary bill only affects banks that are part of holding companies banks. It allows for them to pool their trust into one large pool. The trust from not only all the banks together, giving them a lot larger volume, consequently a more valuable asset to trade for interest and to attract customers. None of the above types of banks had any objection to it. I think it is a good bill.

Sen. BERGERON: Mr. President, I would just like to explain my action. This was after a meeting wherein the senator from the second district kind of stepped out of line and we felt this was one way to bring him back and I was just sorry that the chair overruled the minority report.

Senator Poulsen moved the words “ought to pass” be substituted for the words “without recommendation.”

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Brown moved that the rules of the Senate be so far suspended as to allow the introduction of committee reports on **SB 235, 249, 293, 314, 327, 328, 338, 344** and **356** with only one day's notice in the calendar.

Adopted.

SB 235, establishing a study commission on child abuse and neglect and making an appropriation therefor. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This bill was sponsored by Senators Foley and Jacobson. What it does is set up a study commission on child abuse and neglect. It makes an appropriation of \$3,000. The committee will consist of twenty-four members. There will be two members of the Senate appointed by the President, two members of the house of representatives appointed by the Speaker of the House, the Director of Welfare, Department of Health and Welfare and his designee, the Director of the Division of Mental Health, Department of Health and Welfare and his designee, the Director of the Division of Public Health, department of health and welfare or his designee and 17 members appointed by the Governor and the council appointed from members of the following groups: District Court Judges Municipal Association, the New Hampshire Academy of Pediatrics, the New Hampshire Medical Society, the New Hampshire Hospital Association, Police Standards and Training Council, the New Hampshire Juveniles Officers Association, the Public School Superintendents, the New Hampshire Bar Association, the Committee on Children and Youth, the New Hampshire Task Force on Child Abuse and Neglect, New Hampshire Pediatric Association, the New Hampshire Nurses Association and so forth. There is an appropriation of \$3,000.

Referred to finance under rule No. 24.

SB 249, relative to the definition of rule in the administra-

tive procedures act. Ought to pass with amendment. Senator Brown for the committee.

Amendment to **SB 249**

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Exclusions from Notice and Hearing Requirements. Amend RSA 541-A:3, IV by inserting after subparagraph (b) the following new subparagraphs:

(c) declaratory rulings.

(d) rules adopted by the personnel commission under RSA 98.

(e) rules adopted by the department of administration and control under RSA 8.

Sen. BROWN: The amendment exempts the personnel commission in the Department of Administration and Control. The reason being that they're on the internal affairs of government, they are governed by the procedural manual and governor and council. What the bill does is clarify what a rule from an agency shall be. In the past including internal memoranda of the Department and Personnel records and things of this nature which do not become part of the rule—it clarifies what a rule will be in relation to the administrative procedures act.

Amendment adopted. Ordered to third reading.

SB 293, relative to wood processing mills. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this is another one of the bills to come out of committee that was set up by the legislature to study forest laws and will in another year eliminate the need of registration of each saw mill every year by making it a yearly process they won't have to buy a \$25.00 plate every year. And from then on they will have a reporting procedure. Its only usefulness at this point is to keep an inventory record for the departments so that they will have an idea of what forest products are cut in the state. It used to be of use in fire

location, but mills are not portable now so it's of no use in that direction. It makes it a lot easier this way.

Adopted. Ordered to third reading.

SB 314, permitting the assembly and voluntary participation of public school pupils in the free exercise of religion during a 5 minute period before the start of the official school day. Ought to pass. Senator Brown for the committee.

Sen. BROWN: SB 314 sponsored by Senators Sanborn, Monier and Rock. It permits the assembly and voluntary participation of the public school pupils with the free exercise of religion during a 5 minute period before the start of the official school day. It's on an optional basis and if there are any questions in relation to the bill I prefer you refer them to the sponsors of the bill.

Sen. HANCOCK: Senator Rock, can't that now happen by school district decision?

Sen. ROCK: I don't know senator.

Sen. HANCOCK: Is there anything that you know would preclude their doing it now?

Sen. ROCK: I can't answer that question.

Senator Bossie moved that **SB 314** be laid on the table.
Adopted.

SB 327, adopting the uniform amendments to article IX of the uniform commercial code. Interim study by the Judicial Council. Senator Brown for the committee.

Sen. BROWN: This is quite a thick and comprehensive kind of bill. It is stated in the testimony of the committee that the commissioners of which there are two, and there are in each state, they themselves suggested that it go to the judicial council or the effective date be postponed to 1979 and the committee chose to send it to interim study in the judicial council.

Adopted.

SB 338, relative to investigations of the state fire marshal. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This refers to the investigation of the fire marshall, sponsored by Senators McLaughlin and Sanborn. Senator McLaughlin is the fire commissioner in the city of Nashua and Senator Sanborn is well involved in fire control. I'm going to let them explain the bill.

Sen. SANBORN: The senate bill in question SB 338, at present if you have a fire in a city or town, the fire marshall comes in for certain reasons and investigates that fire. Many of our larger cities already have a well established investigations department. What they will do is not do their duties, but sit back and wait until the fire marshall completes his duties and then take a copy of the report, sign it and pass it on and collect his pay for doing nothing. Or he may go the other way around. Because the law requires the fire marshall to come in on certain fires, he just sits around and lets the local department do the investigations if they have an investigations department and then just sign the report, pass that in and collect his money. All this bill does is to say that in a fire investigation the departments that have their own investigations section, that that local section will do the investigation. Very simple bill, I hope it is passed.

Adopted. Ordered to third reading.

SB 344, providing for the appointment of pro tempore members of the personnel commission. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This bill requires that the commissioner pro tempore will be appointed by the governor in case there is a commissioner that cannot attend a hearing. Apparently it has happened numerous times in the past and where there are only two commissioners, each one could be of a different view, and if nothing is accomplished, apparently it has happened quite often that they set up the hearings for two weeks hence, which they have to by law, and then 2 or 3 days before the hearing a commissioner is called away and that leaves only two. Once again if there is only two and they are of different views of opinion, nothing is accomplished. This will avoid that by having one appointed by the governor.

Sen. FOLEY: At the present time, are they all appointed by the governor?

Sen. BROWN: I don't know how they are presently ap-

pointed. I imagine they are appointed by governor and council as others are.

Sen. SMITH: Does this bill say that the governor can appoint anybody to fill that vacancy? Or does it have to be a member of the health and welfare advisory commission?

Sen. BROWN: What has health and welfare got to do with this? This is the personnel commission. That question could apply to this bill.

Adopted. Ordered to third reading.

SB 356, relative to the scope of the hearings conducted by the appeals board of the health and welfare advisory commission. Ought to pass. Senator Brown for the committee.

Sen. BROWN: The present law states that if an applicant or recipient within the welfare system is not satisfied they have the right to a fair hearings appeal. The Department of Welfare has no problem with this. There is a gray area here in relation to people they receive services from, which are doctors, dentists, nursing homes and so forth. They have been holding the hearings but they don't feel, it is a gray area, but they feel they should not have to because they claim it should be straightened out administratively or within the courts. That's what this bill does. It allows the hearing appeals on applicants and recipients, the ones that they receive the services from, that those problems will be resolved administratively or within the courts.

Adopted. Ordered to third reading.

SB 75, imposing certain limitations on oil suppliers doing business in the state. Ought to pass with amendment. Senator Bossie for the committee.

Sen. BOSSIE: What this amendment does is correct what was probably a defect in the original bill. At the hearing we had a number of people who appeared. A lot of retail gasoline dealers who favored it; a lot of representatives and senators who favored it and then we did have some representatives of the large oil companies who opposed it. And a number of people known as jobbers who opposed it. What the amend-

ment does is to delete jobbers from the definition of suppliers so as to exclude them of the applicability of the proposed statute. Now here is what the bill basically does. The bill prohibits suppliers of petroleum or petroleum products from operating retail gasoline outlets in the State of New Hampshire after January 1, 1979. It authorizes the attorney general to grant extensions of time beyond that day for a supplier if the attorney general determines that cessation of the operation of the outlet by the supplier before that date would constitute a hardship. It also provides for uniform treatment of dealers by the suppliers. Now one thing that we had not considered was the problem of jobbers. A jobber is an individual often a gasoline station owner who buys a substantial amount of petroleum and he in turn distributes it to a number of gasoline stations himself. So what we intend is if we don't want, and the proposers of the bill do not want, the major oil companies to be competing in the retail gasoline business in the state of New Hampshire. It is our feeling that a number of gasoline stations in this state and throughout the country have been driven out of business as a result of the large oil companies squeezing them out. Raising the rent to such exorbitant proportions that they are unable to pay it. Also, one of the biggest problems we are going to confront in the State of New Hampshire is the fact that if we want to get our automobiles repaired there will be nobody around because the oil companies don't really care about repairing automobiles. They are interested in selling petroleum, especially at the high prices we have now, they are interested in selling gasoline products; they want to sell windshield solvent, they want to sell tires and carburetors and every thing else you can imagine. Senator Bergeron, yes they also want to sell cigarettes. You also have noted the article that appeared yesterday on your desk that Senator Fennelly was so good to cut out. It was an article from the Boston Globe. "Oil Firms Squeezing Out Gas Station Service" and let me quote just briefly from this: "Spokesmen from major oil companies confirm that their major efforts recently have been concentrated on gas and gas stations and self-service operations but they say it is just a recognition of the need in the marketplace. The motorists want to get their fuel at the cheapest prices and are not willing to pay a higher price to have support, full-service, small volume station." Now this is the problem in the State of New Hampshire. Frankly I don't mind self-service stations and I

don't mind getting gas at the least expensive price but the problem is we have to consider that, is if we keep doing that we're going to drive out the little gasoline station owner and he won't be repairing our automobiles. You know who is going to—the major oil companies. They're going to probably have one of the largest gas stations in Manchester. Just for repairs. The only place in town to have your automobile repaired. I don't think that we want this. We pass all sorts of laws protecting various aspects of the industry. I have no interest in gasoline stations or parts or anything else. And do you know where we got the suggestion for this? Three guesses. We got it from a federal commission of the congress. Congress has before them now a federal bill to do exactly what we're doing except make it apply to jobbers as well as everybody else. Unless we at least focus on the problem we are going to be in great trouble. I think the amendment as proposed would exclude the jobbers and those people, and a number of you have expressed an interest in the bill because you have received calls from jobbers. They are so afraid that they are going to be put out of business. This amendment will not put them out of business. This amendment will not put the local guy right on the corner of the street out of business. What it is going to do is make Mobil and Gulf be in the business that they should be—in manufacturing oil, in finding oil sources and supplies and in dealing with their multi-national corporations. I don't mind if they do this but I do mind if they take away the jobs of the local guys on the corner of the street. You know who is going to be working in that garage? They're going to be paying some fellow \$2.30 an hour and in fact there is a bill here that if they're under 19 years of age they're probably going to pay him a \$1.50, because jobs are tough. I think there are people around this state that make a fine living being the owners and operators of retail gasoline outlets and I wouldn't want them to be hurt. I ask you to pass this amendment, to pass the bill and all of the arguments that you may have heard, we tried to abbreviate to a great extent and the only ones we aren't helping out on this bill is Mobil Oil and the large oil companies.

Sen. PRESTON: Thank you Mr. President. I rise in support of SB 75 as amended. I would like to say I go back a long time on this bill with Senator Saggiotes and we had great interest in it during the last session. We sent it to a study committee and we did some studying on it. The major oil

companies during the committee hearing were asked, is it the policy of the major oil companies to do away with the leasing, they said it was not. Well it is their policy as per an example, last year I took a trip out to California and everything from Tennessee to San Diego is all self-service. But the oil companies are after something more than that. They are after a \$3 billion dollar parts business. After they do away with their own competition and your neighborhood mechanic who has been working on your car for 15 or 20 years will no longer be in business. The State of Nevada passed a law pertaining to self-service that you must have an attendant on at all times. But the oil companies got around that to a certain degree; they have an attendant that will service your gasoline but you pay 6c/gallon more. In the city of Dover five Texaco, Esso and about 3 more gasoline stations went out of business. And lo and behold about a year and a half ago, Gulf Oil Company opens up a 24 pump service. Now what the oil companies are trying to do to get into this \$3 billion dollar parts business is to eliminate the competition, their own competition to a great degree, and after that, you've all seen it in big shopping malls where Sears has a massive 16 store, where you bring your car in to put on a muffler and generator. Once that happens they will dictate the price to you all over this nation like they do on gasoline. Now if you want a way of life to go out of the State of New Hampshire, not to vote for this bill, in approximately 4 or 5 years your small mechanic, whose money is made in the backroom as they call it, on the repair of your automobile, will be done forever and I hope that you support SB 75 as amended.

Sen. ROCK: Senator I have page 17 of the calendar journal, is this the whole amendment?

Sen. BOSSIE: This is the whole amendment senator.

Sen. ROCK: Can I ask you a further question on the amendment—as I read the amendment there is no further reference to jobbers in the amendment that were originally in the bill. Is that correct?

Sen. BOSSIE: Yes, basically what it does is add on section 7 which defines what a distributor is. A distributor is any person, this is what a jobber is—a distributor, including an affiliate of such person who purchase motor fuel and petroleum products for sale, consignment and distribution to another such as retail outlets and volume accounts. A jobber

is what is known as a volume account. What it does is leave the other definition of supplier and the only one who would qualify as a supplier is one who manufactures or refines oil products.

Sen. ROCK: What does your amendment do to a distributor?

Sen. BOSSIE: It adds the definition of distributor. Basically a distributor is a jobber and a retail outlet is the service station that sells to the consumer.

Sen. ROCK: You have changed considerably the original SB 75 in that you now have discriminated further. Is that not a fact?

Sen. BOSSIE: On the contrary, there is no discrimination in this bill. Basically, we are saying that we don't want multinational corporations to run the gas station on the corner. We want the local guy who votes for you and me to be on the corner.

Sen. ROCK: Is there any way in which the law will treat differently the little guy on the corner and the distributor as a result of your bill if they both operate a service station?

Sen. BOSSIE: I think the constitution permits this. You can treat individuals of this nature in a different manner.

Sen. ROCK: The answer to my question is yes, it treats them differently.

Sen. BOSSIE: They could be treated differently.

Sen. ROCK: Then I draw an analogy for you senator, if John Jones has a Gulf station on the corner of Bridge and Elm Street in Manchester, he is an independent operator and on the corner of Elm and Hanover Street there is another gas station, this one is operated by a company, are they treated differently under this law with respect to how they can handle their business?

Sen. BOSSIE: Yes. After 1979 the fellow on one side of the street won't be there because of the fact that we don't want him there. We want that oil company to rent that, he take it out of there for all I care, they don't want our local people running our service stations because we want some service other than taking the gas out of the pumps ourselves. Now I might add that the questions that you are proposing are certainly identical, almost, to those offered by Stacy Cole at the hearings. Now he represents the petroleum industry and I love the man, he is very bright, and he knows just about everything there is to know about petroleum products. But

the fact remains, and he alleges as you do, that this has great constitutional barriers because we're treating somebody differently than others. All I can see that if he feels this way he can use the courts like the rest of us.

Sen. ROCK: In earlier debates today, you expressed great faith in the courts and their decisions—would you feel comfortable to send this to the courts and ask for an opinion, so that we can find out if it is discriminatory?

Sen. BOSSIE: No, I don't see why we should waste our time and money sending this to the court—they have all the money. And they're going to have more of it. Let them send it to the court if they think it's unconstitutional. We have no burden and no obligation to do it and I'm opposed to it.

Sen. ROCK: How much money would it cost to send this to the supreme court?

Sen. BOSSIE: That is not the point.

Sen. ROCK: I beg your pardon, I thought you said let them spend their money, we don't want to spend our money.

Sen. BOSSIE: Why should we spend our time and efforts when we have to have this bill out by next Tuesday? Why don't we send this over to our house senator like you're always favoring doing and we'll let them send it. I don't want to send it—if the oil companies want to challenge the constitutionality as Senator Bradley said about a previous bill we are undertaking. I don't want it sent over there—I want to pass this and if it is the law of the land, anybody who wants to appeal it certainly has a right to.

Sen. ROCK: Senator I think I have to preface my question, by saying I very seldom, I think ever, suggest we send things over to the house and let them work on it. I mentioned it on one bill this session and it happened to be SB 50 and you are co-sponsor and I just think it had a very short hearing on a bill that took two years to put together is announced it is going to get a four minute hearing. I felt badly about that. But anyway, doesn't this senate, and this is my question, have the prerogative constitutionally to send the question to the court if it is in doubt on a matter?

Sen. BOSSIE: They have a prerogative if they are in doubt, we are not in doubt.

Sen. ROCK: If some senators are in doubt, if one senator is in doubt—that prerogative is there?

Sen. BOSSIE: That prerogative is always there. But so is Stacy Cole and his outfit—they're going to take it—you know

it as well as I do. I think we should give them the benefit of the doubt, when they want to take it. They can have all their high-priced lawyers from New York come up and fight it.

Sen. ROCK: When the high-priced lawyers come up from New York and fight the battle who winds up paying?

Sen. BOSSIE: It really makes no difference—it's non-germane. Basically, the oil company pays for it.

Sen. ROCK: Can't the marketplace take care of this problem?

Sen. BOSSIE: That's very interesting. Quite often, as we have had personal conversations, there is a lot of government in industry that I believe in a *laisse faire* approach. Sometimes, and often, there is too much government in our business and as you know I don't necessarily disagree with that. Sometimes in our lives and in particular areas, and one of the areas is gasoline, and frankly I can afford to pay 52c a gallon or 60c or whatever it is. But there are a lot of people in my district making \$100 bucks a week and they have three kids. Now I'm just concerned, and I'm very concerned about this—they're not going to be driving around and the rest of us—we're going to go back and forth or wherever we want there's a lot of people who say—jeez it's tough enough to pay the insurance and upkeep of the car, registration, how can I keep paying these high gasoline prices. I certainly believe in conserving but I think there should be a balance. Everybody should conserve—the upper crust and lower crust. No matter what bracket one is in and so with this in mind I really have to wonder.

Sen. ROCK: Isn't it President Carter who is going to raise the tax on the gasoline not the gasoline companies?

Sen. BOSSIE: Senators McLaughlin and Rock, I would tell you, what has that to do with the bill? I am for that—if they can cut down on the use of energy—that is wonderful.

Senator Rock moved that **SB 75** and its proposed amendment be sent to the Supreme Court for an advisory opinion.

Senator Bossie requested a roll call. Seconded by Senator Fennelly:

The following senators voted yea: Poulsen, Smith, Gardner, Bergeron, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Sanborn, Provost, Brown, Preston.

The following senators voted nay: Bradley, Saggiotes, Hancock, Bossie, Fennelly, Downing, Foley.

14 yeas 7 nays

Adopted.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

INTRODUCTION OF HCR NO. 7

First and Second Reading and Referral

HCR 7, adopting joint rules for the 1977 general court—To Rules.

SUSPENSION OF RULES

Senator Rock moved to suspend the rules of the senate so far as to allow HCR No. 7 be placed on second read and final passage at the present time.

Senator Blaisdell moved the previous question.

Adopted.

Adopted.

HCR No. 7, adopting joint rules for the 1977 general court. "Ought to pass". Senator Rock for the committee.

Senator Monier requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Poulsen, Smith, Gardner, Bradley, Saggiotes, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Provost, Brown, Bossie, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Bergeron, Monier.

18 yeas 2 nays

Adopted.

SUSPENSION OF RULES

Senator Downing moved that the rules of the Senate be so far suspended as to allow all bills be placed on third reading and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

SB 337, relative to family day care.

SB 297, establishing a study committee to study a unified public school system for the state.

SB 240, permitting towns to appropriate money for day care centers.

SB 262, creating a New Hampshire athletic trainers board.

SB 270, relative to municipal immunity.

SB 291, permitting a local option to adopt property tax exemptions for property improvements and rehabilitation.

SB 296, relative to the expenses of the division of municipal accounting for in the performance of its audit functions.

SB 299, authorizing the establishment of municipal development districts.

SB 326, defining the term "inhabitant" for purposes of certain elections.

SB 330, relative to protests in zoning ordinance change.

SB 331, relative to rehearings on zoning board of adjustments decisions.

SB 336, relative to home warranties.

SB 349, granting zoning powers to the Lower Bartless water precinct village district and ratifying the annual meetings of the Lower Bartlett water precinct village district for 1976 and 1977.

SB 353, permitting the expenditures of certain unanticipated revenues pursuant to the municipal budget law.

SB 300, relative to the registration of unauthorized dams.

SB 194, to permit the state to accept the retrocession of jurisdiction in and over the Veterans Administration hospital in Manchester, New Hampshire.

SB 278, relative to exempting certain motor vehicles from motor vehicle registration fees.

SB 280, relative to motor vehicle inspections.

SB 282, relative to the use of binder chairns on certain motor vehicles transporting construction equipment.

SB 322, relative to four-lane highways and rights of way.

SB 354, relative to investment of funds of certain fiduciaries.

SB 249, relative to the definition of rule in the administrative procedures act.

SB 293, relative to wood processing mills.

SB 338, relative to investigations of the state fire marshall.

SB 344, providing for the appointment of pro tempore members of the personnel commission.

SB 356, relative to the scope of the hearings conducted by the appeals board of the health and welfare advisory commission.

Adopted.

Recess until 11:00 a.m. on Tuesday, May 10.

Out of Recess.

(Senator Sanborn in the chair.)

HOUSE MESSAGE

HOUSE CONCURS IN SENATE AMENDMENT

Mr. President the House has voted to concur with the Amendment by the Honorable Senate on HB 442.

HB 442, relative to the commission and tax on running and harness horse races and relative to the sire stakes program.

ENROLLED BILLS REPORT

HB 360, relative to the training of hunting dogs.

HB 442, relative to the commission and tax on running and harness horse races and relative to the sire stakes program.

Senator Lamontagne for the committee.

Recess.

Out of Recess.

COMMITTEE REPORTS

SB 352, relative to the power of Franconia college to grant degrees. Refer to Interim Study by the committee on education. Senator Smith for the committee.

Sen. SMITH: This bill was brought in without any recommendation from the board of higher education. I talked with Senator Poulsen who feels that the bill should be remitted back to committee for interim study and wait for the report of the commission. I hope that the senate will go along with the committee report.

Adopted.

SB 325, amending the charter of the union school district of Keene to provide that a candidate for school district office shall file his declaration of candidacy no earlier than 45 days and no later than the fifth Monday next preceding the district election. Ought to pass. Senator Smith for the committee.

Sen. SMITH: Mr. President, what this bill does is print the election laws in regard to the school district in Keene and other election laws as outlined in the charter of the city of Keene and I hope the senate will go along with this bill.

Adopted. Ordered to third reading.

SB 328, restructuring the office of legislative services and creating an office of revisor of the statutes. Ought to pass with amendment. Senator Brown for the committee.

Amendment to **SB 328**

Amend the bill by striking out section 20 and inserting in place thereof the following:

20 Repeal. RSA 17-A relative to the office of legislative services is hereby repealed.

21 Effective Date. This act shall take effect July 1, 1977.

Sen. BROWN: The office of legislative accounting sets up two distinct offices, one for the senate and one for the house.

Each office being guided by the presiding officer. It also sets up a third office. It also repeals RSA that originally set up legislative services in the first place.

Sen. JACOBSON: Yes, Mr. President, I rise in support of the amendment and what the bill does is set up a system whereby the senate operates its own legislative service system and the house legislates its own. One of the major problems that I have seen my entire time while in the senate, by the very nature the difference in the sizes.

COPY ON TAPE INAUDIBLE

Amendment adopted. Ordered to third reading.
(Senator Downing recorded in opposition to the bill.)

SB 358, relative to the denial of an application for a credit card. Ought to pass. Senator Bossie for the committee.

SOME OF THIS COPY IS INAUDIBLE ON TAPE—

Sen. SMITH: disclosure inapplicable on information obtained in a report from a consumer report agency that you have to give the name, street address and telephone number. And finally, information obtained from another outside source other than a consumer reporting agency, under the fair credit reporting act, you have the right to make a written request within 60 days of receipt of this notice for disclosure of the nature of the adverse information. You have to give the creditors name and address and telephone number. So I think that not only does the federal law take this section of this bill into consideration but goes much further in guaranteeing credit information, or as to why credit was denied. I hope that the senate, instead of filling our law books, will fill this bill, and due to the fact that it is presently covered.

Sen. BERGERON: Senator, in part of your discourse, you made reference to a man being able to obtain the name of any one that might have given a reporting agency adverse informa-

tion. At one point, I believe you made reference to myself as a consumer seeking credit, can have this information made available to him but I believe there was an exception

INAUDIBLE

Sen. : In most investigations that I have been involved with, if I know that anyone is running a kind of a check on me, I can't in writing request from the investigating agency a copy of that report.

Sen. : That is not the way it works. You go to your bank. You want a credit card or a loan of some sort. And you are denied, it is mandatory that the bank upon issuing the credit card or making the loan give you reason why and also disclosure of where that information came from. Then you have a right to go to that one, credit agency or whatever and find out why they made such a report.

Sen. : Well senator, based on the information you have given us here, what's the difference with Senator Preston's bill?

Sen. : Senator Preston's is a limited bill—This covers every conceivable type of credit.

Sen. BOSSIE: Senator, how many people in this room are aware of this federal law that you cite as a law?

Sen. SMITH: I am.

INAUDIBLE

Sen. BOSSIE: And senator would it be true that in the last few days the lobbyists have made you aware of this, more aware of this bill that is presently pending by Senator Preston?

Sen. SMITH: I saw the bill and I checked to find out exactly what it did. It is my understanding that the federal law covers it.

Sen. BOSSIE: Senator, what is so wrong with a bank or anyone else when they deny somebody credit or a credit card, what is wrong with them saying, well gee, this is what we received on you, here's a copy of this, what's so bad about sending this along to the consumer. He should have a right to know.

Sen. SMITH: There is presently a system whereby this is done as I indicated under the existing laws.

Sen. BOSSIE: But isn't it true under that federal law that it is a big runaround. You've got to go all over the place and perhaps you have to go to Boston or New York to find the credit report.

Sen. SMITH: What is done under this federal law is that the minute creditors deny it is mandatory to present one of these forms to the person who is denied credit.

Sen. PRESTON: Mr. President I am both surprised and shocked by this sudden opposition to a bill such as this from the senator from the third district. I didn't see Senator Smith at the hearing the other day objecting and I want him to know that this won't hurt big banks and plants or any big businesses. This bill is not to be looked upon as one of these do-gooder consumer bills—it will benefit both big business and the consumer. Those denying a credit card now have to notify the consumer they have been denied and in most cases they have the correspondence sent back to indicate where the adverse report came from. The purpose of this bill is a case of a fellow in Concord whose credit has been excellent for 35 years. He is a businessman, he owns equipment. He has one of the highest credit ratings that you can hold in banks for credit. His wife was buying items in a store and they encouraged her to apply for a credit card. Subsequently they received a denial, an adverse report of credit. Certainly they could correspond with the main office, I don't know if this was in the mid-west or Philadelphia and they did get back and they made two more calls to a local agency, two more long distance calls and they were told their computer had made an error. They dispersed wrong information and to this large organization—which goes to other agencies incidentally. It created a real problem, they're bothered by this, they're afraid that it will affect their credit and the burden has been thrown upon them to correct an adverse report—that if it had come back through the mail—it would have created no great expense—could have been corrected. Another gentleman with whom I am acquainted, was turned down for a national credit card. I think his personal assets were in the vicinity of \$240,000. He is also a small business man and he was also denied reference to a third party credit report. Now he has corresponded two or three times to get copies and they haven't been forthcoming. In both instances these people would have been an asset to do business with. And if the adverse reports had come back, these people could have contacted the

agency, sent in the report and corrected it. The company they wanted to do business with would have handed them a credit card. The responsibility wouldn't have been on the consumer who in one case had made the error INAUDIBLE. It will certainly protect those who are good credit risks. I urge that you vote in opposition to the pending motion.

Sen. PRESTON: We'll say that this outfit that does the credit investigation looks up a person and says that they are a bad credit risk and it's in error. Under the existing federal law, this information as to who the credit agency was can be determined. If it is a wrong address, they're not going to find out about it anyway. And it seems to me that if we had a system, which has been developed, is in operation, that we don't need this kind of duplication of effort on application of credit cards. We already have a system on the books. Wouldn't you say that this is a fair statement?

Sen. : I don't even know what you said. I've never seen the federal bill; I know it isn't being done now and I am interested in New Hampshire consumers who aren't getting the right information.

Sen. : Have you been to a bank lately and requested a loan?

Sen. : I haven't had an occasion lately to go to banks and request loans.

Sen. : Have you talked to any of the loan officers in the banks?

Sen. : And they have not told you that if you are denied credit, they have a form which they must give to you?

Sen. : I am not here representing the banking industry by any means; I am not aware that they haven't told me about a form because I was not applying for a credit card.

Sen. DOWNING: Senator, there seems to be a popular thought here, that this is going to cause the business increased cost, which is just going to be passed on to the consumer. So while we are doing a service for one segment of the consumer market we are jacking up the price to everybody.

Sen. : I'd say that isn't a fair statement to say senator. They're corresponding with the consumer anyway on a denial; it merely means including a photocopy of the adverse report of the source. They give you the source anyway but this saves phone calls and correspondence from the consumer back to the main office and maybe a third parties to get to the credit agency that gave the initial report. I am just trying to

short circuit it and make it a direct route. It's not punitive to the companies or the consumer.

Sen. BOSSIE: Would you believe, Senator what the good Senator from district 3 was referring to, is a regulation B under a federal register which is some part of the bureaucracy imposing this regulation through the federal reserve system.

Sen. DOWNING: Senator if you say it I'll believe it.

Sen. JACOBSON: As I understand it now what this bill will do is to allow the creditee to receive the actual document of the adverse report.

Sen. : That's correct.

Sen. JACOBSON: That that adverse report may show or may not show that the creditee had had a problem other than the money problem. Is that the case?

Sen. : I don't believe that is the case. It's a copy of the report they can obtain anyway but it's the routes they have to go through to obtain it. It's information that would be available to them anyway. They could get no greater information than would be already available after several calls.

Sen. JACOBSON: The bank that you went to was our bank?

Sen. : That's correct.

Sen. MONIER: I would just like to rise in opposition to the pending motion. There have been bills similar to this in the senate and house for the last 4 years that I know of. They have been various, varied from this in which the credit reporting agency would have submitted the report which was submitted out that they had recommended a poor credit risk on a particular application. I don't know that I go all the way with who it is that is supposed to provide the consumer with this but I certainly do feel that when a consumer is denied a credit card or denied a credit reference on the basis of a report, that he should be able to know which agency and on what basis that information was provided. If you have ever looked at any of the credit files in particular cases of people you will find that there is a lot of extraneous material; in many cases some of it ancient and some not upgraded. I am well aware of the federal law which was as an excuse four years ago to stop a similar bill in the house. It was used two years ago to stop a similar bill in the senate. And the Full Credit Reporting Act is a good bill and a good act. But this in itself puts the hiatus right where it belongs, and that's on the people who request the information that is contained in the credit bureau's files and second,

then make the decision on the basis of that. So that the consumer and the person, and I don't like this word consumer, the person was asked for a credit to be established, then tell us what it is and on what basis that is denied. And if he does do that then he can take the action with the federal reporting act that they allow him to take. Otherwise he may never know why, where that report came from, he may not know, have any idea, about the files themselves and in many cases doesn't even know where the credit bureau is located. This in particular does establish that and performs that function for him. I think they should and I think that's very important in this computer age that we know that kind of activity. Therefore, I rise in opposition to this motion.

Senator Smith moved to indefinitely postpone **SB 358**.
Motion failed.

Senator Poulsen moved that **SB 358** be laid on the table.

Division vote: 9 senators voted yea; 11 senators voted nay.
Motion failed.

Adopted. Ordered to third reading.

SB 56, establishing an adoptive care act. Ought to pass with amendment.

Senator Saggiotes for the committee.

Amendment to **SB 56**

Amend RSA 170-F:4 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

170-F:4 Subsidy. The director or his designee, after consultation with the official responsible for the administration of welfare in the legally chargeable community, may make or require subsidy payments to an adoptive family (as needed on behalf of a hard-to-place child) where the adoptive family has the capability of providing the permanent family relationships needed by such child in all areas except financial, as determined by the director or his designee. Subsidy payments may be made under this chapter only pursuant to a subsidy payment agreement entered into by the director or his designee and the adoptive parents concerned prior to completion of the

adoptive process, but subsidy payments may be made before such adoption becomes final.

Amend RSA 170-F:5 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

170-F:5 Agency Recommendation. Any public agency or licensed child-placing agency, having a hard-to-place child, may recommend to the division a subsidy for the adoption of such child, and may include in the recommendation advice as to the appropriate level of payment and any other information likely to assist the director in carrying out the provisions of this chapter. The director or his designee shall make the determination as to whether or not an appropriate adoptive home exists for the child, but in so doing the recommendation of the referring agency shall be considered. If the director or his designee concludes that the child referred is a hard-to-place child within the meaning of this chapter and that an appropriate adoptive home exists for the child, the director is authorized, after consultation with local officials as required in RSA 170-F:4, to enter into a tentative adoption subsidy agreement with the prospective adoptive family.

Amend RSA 170-F:6 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

170-F:6 Adoptive by Foster Parents.

I. If a child in the custody of the director or a licensed child-placing agency has been in foster care for at least 6 months after the child is legally available for adoptive placement, the director or his designee shall inform the family providing care of the possibility of financial aid for adoption under this chapter. If it is found after investigation that the family caring for the prospective adoptee would be an appropriate adoptive family for the child but for the family's economic inability to meet the child's needs, the director or his designee, after consultation with local officials as required in RSA 170-F:4, shall enter into a tentative agreement with the family concerning the amount and duration of the proposed subsidy in the event the child is placed for adoption with that family. The director or his designee shall in all cases take all steps necessary to assist the family in completing the legal and

procedural requirements necessary to effectuate the adoption, including payment for legal fees and court costs.

II. The expense for the support given under this chapter shall be borne by the county, city or town legally chargeable for the support of the adopted child if said child were a public charge.

Amend RSA 170-F:8 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

170-F:8 Funds. The director is authorized to make payments under this section from appropriations for the care of children in foster homes, to seek and accept funds from other sources including federal, private, and other public funding sources and to require the county, city or town, which would be legally chargeable for the support of the adopted child, if said child were a public charge, to make payments to carry out the purposes of this chapter. The amount expended for any subsidy may not exceed the amount which would be paid if the child remained a foster child and had not been adopted.

Amend RSA 170-F:9 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

170-F:9 Review; Adjustments. Once during each calendar year the director or his designee shall review the need for continuing each family's subsidy. At the time of such review and at other times during the year when changed conditions, including variations in medical opinions, prognosis, and costs are deemed by the director or his designee to warrant such action, appropriate adjustments in payments shall be made based upon changes in the needs of the child or the financial status of the parent. Any legally chargeable community or any party to a subsidy agreement may at any time in writing request, for reasons set forth in the request, a review of the amount of any payment or the level of continuing payments. Such review shall be begun not later than 30 days from the receipt of the request. Any adjustment may be made retroactive to the date the request was received by the director. If the request is not acted on within 30 days after it has been received by the director, or if the director modifies or terminates an agreement without the concurrence of all parties, any party to the agreement shall be entitled to a hearing before the

appeals board provided for in RSA 126-A:9-a as now or hereafter amended, and to appeals as provided in RSA 541 as now or hereafter amended.

Sen. SAGGIOTES: I'll speak to both the bill and the amendment, Mr. President. First of all the bill enables a person who adopts a foster child to receive payment in the form of a subsidy. What the amendment does—it does two things. Number one it allows for consultation between the local governmental agency and the division of welfare before the payments are made so that they agree on some type of payment, whatever the amounts are going to be. The other part of the amendment clears up the bill where it was unclear as to who would be liable for the payment. What it does is state more explicitly that whoever had been liable for the payment of foster children would still be liable for the subsidy.

Amendment adopted. Ordered to third reading.

SB 303, establishing a department of corrections merging therein the state prison, the youth development center, the department of probation, and the board and department of parole. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President, SB 303 is a bill that came in from the executive department. It is a skeleton bill that deals with once again, the restructuring of government into a corrections department. It does include within it a series of proposals that were not and do not have the study time that was necessary for it by the committee; there is a large amendment that was offered and passed out to the members of the senate; and it was indicated that there was an executive department, municipal and county government amendment which it is not; it was an amendment to be offered on the floor by another member of the senate at this particular time; the committee put it out as ought to pass under the same conditions that we did with the recommendation of the department of transportation; that we needed this kind of thing over in the house; where it could be studied for the next two months and looked at and determined what should be done with it. We have had several people there discussing it. I talked deliberately this morning because I was going to make another motion and I probably will before we are done, with Roger Crowley, the

head of the Crime Commission, in which they had also done a study with respect to this whole correction situation. The two bills are not compatible in the sense that they do the same thing. Roger says that he is perfectly happy to have this bill passed and over to the house and that they would present their arguments over there. In truth, Mr. President, this is one of these bills that should not have been in on the last two weeks of the session. It is however, and I as a committee chairman, and the committee voted, that it ought to come out with ought to pass with the understanding. The same as the transportation one that it ought to go to the house and that all the amendments could be studied there in greater detail. The bill itself once again is a skeleton bill as I mentioned with the other ones that we have had of this nature, we'll deal with the overall problem and the specifics are not involved with the bill. I think with that I'll leave the committee's report stand as it will.

Sen. HANCOCK: Mr. President, members of the Senate, I would like to move adoption of the amendment as proposed. Mr. President, the question of the correctional system in the State of New Hampshire has been studied over a period, I would say, for ten years. There is desperate need of the adoption of a correctional system if we are anticipate the many problems that face the State of New Hampshire. In the fall the Crime Commission was given a sizeable grant for the express purpose of reviewing the correctional system and making recommendations for change and improvement. With that grant a rather knowledgeable, professional staff was employed for that express purpose. Along with that, there was appointed by the governor, an advisory board and on that board Senator Sanborn served, a member of the house,, Representative Bushey, a representative from each of the correctional agencies and they met rather frequently as an advisory group to that endeavor. Now they have produced and I hope that many of you have had an opportunity to review this bill this weekend. They have produced what many of the professionals consider a rather satisfactory bill. I must say my chief consultant on this has been my brother, Parker Hancock, who is warden of the state prison for some 23 years and who has been active in correctional organizations New England wide, and country wide for a good many years. I think it is unfortunate that this substitute bill occurred, because certainly the director of the crime commission knew that a bill existed which had been put

together by his own staff and certainly the governor knew it. To have been presented last week at a hearing that was not fully advertised and to which not many people could come for that reason, the bill hadn't been printed the Monday previous, to the Wednesday of the hearing, I think is a sort of insult to the good people of New Hampshire who are interested in a revised correctional system. The bill which was devised as a result of crime commission work that I think you should know about. There are certain immediate benefits. It enables for example, the formulation of a coherent correctional philosophy and goals at state level which we certainly haven't had and which we need desperately. It provides accountability to a centralized authority for all agency heads; it coordinates the activities of correctional agencies throughout the state including the county agencies which aren't recognized in SB 303; it provides for effective allocation of existing manpower physical and fiscal resources; it saves money in pooling of manpower and more effective utilization of existing resources. It standardizes operating procedures for correctional facilities and personnel. It establishes a state-wide planning capability which we desperately need; a state-wide training and research capability. It assures more complete transfer of information between the individual agencies—surely that is desperately needed; it allows more effective planning and development of individual agency programs to eliminate service gaps and duplication of services and it involves the counties in unified approach to this state's correctional needs. I know that Mr. Crowley was there and testified in favor of SB 303. I am not quite sure that I understand why. There's a letter from the United States Department of Justice Law Enforcement Assistance Administration dated April 26, which says:

Dear Mr. Crowley: One outcome of a recent monitoring visit, Francis Berke and David Nee have made me aware that draft legislation now exists which may compete with your own staff's proposed legislation for a New Hampshire Department of Correction. In contrast to the excellent work contained in the SPA proposal, (that's the special team)—the competing legislation contains numerous problematic provisions, for instance, one such provisions would preclude New Hampshire from further participation in juvenile justice funding. It's a rather serious consideration. I am sure that is neither your desire nor your intent to continue to press the SPA version with all possible vigor.

That was dated April 26 and was received April 30th in the office of the Crime Commission. It was signed George K. Campbell, regional administrator of LEAA. So I ask your consideration in adoption of the report which received good professional consideration in which there is representation from correctional agencies and which is a professional piece of work desperately needed by the State of New Hampshire to establish a correctional system.

Sen. PRESTON: Senator, I agree with Senator Monier and yourself have said about the lack of time to hear these bills on the amendment but I am a bit confused. Which document is it that the young lady from the crime commission came up to us with and said this is the document we worked on for so long; this is the better document that is supported by Roger Crowley and the LEAA—that we want you to decide upon.

Sen. HANCOCK: I can't answer the latter part of your question because I don't know their philosophy. The first part of your question was which document was the young lady referring to was the amendment.

Sen. PRESTON: Then your amendment is the document in which they did all the work through the Crime Commission not the LEAA.

Sen. HANCOCK: The amendment is the crime commission report, the result of many months of professional work.

Sen. TROWBRIDGE: Mr. President, if we're going to pass anything on SB 303 today, if we are going to pass anything to the house, it is clear to me that we should pass the amendment. If we're not going to pass the amendment then I am going to make a motion that they both go to interim study. But certainly you can't take a bill SB 303 in its present form and say that it represents the thinking of the correctional people in this state. Unfortunately I think, represents an effort of the governor to have his own bill. That's all very well, but here we pay the LEAA people who have done that amendment and it is well drafted, it's logical, it has everything included, it is a complete structure whereas SB 303 in its present form, unamended, is not complete at all. It has all the gaps that we have now. So I think I understand Senator Monier saying let's send it over to the house and let them look at it. I don't think it's responsible for the senate if it has before it two choices, one which is well thought out and one which is not, to send over the one which is not thought out. We can send over even though we haven't studied it, the LEAA report and have that

be our recommendation that that be the basis upon which the house looks at this and even then they may not have time to full comprehend it. But certainly of the two, we must pass the amendment.

Sen. HEALY: Senator Monier, I've looked at this detailed bill and also an amendment of many pages, which would take a long time to review and to study, I am not opposed to it as far as it goes. But I have a couple of questions to ask. Number one, if we should adopt this bill we will come up with a new set of parole members, commissioner of corrections, director of division of state prison, the director of the development center, director of the division of probation—I'm wondering just what is going to be the future of these people that are conducting these facilities as of now. This now setup, this list of officers, would have jurisdiction over these facilities. Am I not right?

Sen. MONIER: That's right, under the skeleton bill, that's correct.

Sen. HEALY: In other words, all of the directors of these various departments right now are not sure of their future status?

Sen. MONIER: No that is not entirely true, simply because of the fact if what I said when I first stood up Senator Healy, and that is that no one has had a time to analyze either the bill that was brought to the committee nor the amendment. I have listened to the fact that the amendment represents a whole ten years of study and work but by the same token it also is 44 pages long or something like that, my suggestion was that it be offered in the house to an amendment to this bill where they have from now till June to handle that kind of situation and argue those points. For me to accept, that I should take the amendment now and pass that, is just as foolish as far as I am concerned as it is to to really try and say the other bill is complete. For your information, as a matter of fact, before we're done with this I'm going to make another motion but I might agree for this to be aired in this way and agreeing in a sense that you would not have an argument with the committee report. You cannot take, and I don't care Senator Healy, what bill we are dealing with, of 30 or 44 pages and bring it in in the last week and analyze it and give a satisfactory report on it. The only hope that I had was that I would keep the thing alive in its original form so that it got to the house it had both.

If you adopted the amendment they do not even have the other to consider.

Sen. : Senator this would require an appropriation, rather sizeable I would say.

Sen. MONIER: That is correct.

Sen. HEALY: Does it seem to you senator with these bills coming in requiring appropriations, it is quite an addition in the way of ways and means. To meet our commitments to the taxpayers when we are already operating and I'll quote at "deficit spending". My question is, the bills seem to be coming in adding appropriations and quite a few of them. Now we are having problems meeting our finances presently. Now I haven't been in the senate too long, so I have a feeling for the taxpayer and I feel that the taxpayer right now is confronted with an extra amount of taxes due to the present such status of the state and with all these additional such bills coming in with appropriations, I hesitate a little bit on taking action on these things. I think it may be a good thing.

Sen. MONIER: I can only answer you very simply—I thoroughly agree with you and I think you should realize that there are other senators who feel the same way you do and two, recognize that there are two bodies here and as a result of it my only purpose is this: not to pass it with the appropriation because I do not fully expect that bill will ever survive the way it is—with the appropriation or otherwise. But if you accept the amendment you are now accepting something that the senate has not had a chance to hear and can be better heard in the house. That's my only argument. If on the same basis we are going to kill every bill that comes in with an appropriation because it came in the last week and is 20 pages long, that is not a good judgment either particularly when you know that you can offer amendments and testify in the house and so can the people who are concerned with them. Now I'm not an expert on corrections, I don't think that all the rest of us that are speaking are experts on corrections. I am well aware that this is a crime commission bill or recommendation, the amendment, when we held the committee report, I specifically asked the director of the crime commission as to whether or not he supported either bill or did he have any comments to make. He was a little reluctant to do this and I told him that he was protected in the committee to do what he wanted to do. He did. He said he supported the basic bill as it was reported because he recognized that these amendments

and things could be better dealt with in two months period of time in the house than they could in 20 minutes of time in the senate. I think the explanation is full enough. No one expects—for example, to pass the amendment, I don't expect it in that form to pass either.

Sen. HEALY: Senator I want you to understand that I concur 100% on that type of bill cause I think it's been a long time and long-awaited need for coordination of these departments. Number two, do you think that the crime commission which is so susceptible to spending a lot of money on a great many things throughout the state might come through with a little spending to help us out on this business here. This government money seems to be coming pretty soft and pretty easy but it's not coming too soft for the taxpayers of New Hampshire and I am interested in the taxpayers of New Hampshire.

Sen. MONIER: That's another reason why I did not want the amendment substituted for the bill; you can tell better over a two month period of time.

Senator Hancock moved an amendment to **SB 303**.

Amendment to **SB 303**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

concerning the organization and reorganization of the state government and establishing a department of corrections as a department in the executive branch, and making an appropriation.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 615 the following new chapter:

CHAPTER 615-A Department of Corrections

615-A:1 Declaration of Purpose. The purpose of this chap-

ter is to improve the administration of state government by providing unified direction of policies, programs and personnel in the field of corrections; to protect the public, and to provide for the custody, care, discipline, training and treatment of persons committed to state correctional institutions or on probation or parole; to facilitate the execution of sentences imposed by the court; to supervise and assist in the treatment and training of persons in state correctional and state detention facilities, so that such persons may be prepared for release and reintegration into the community; and to cooperate with the other law enforcement agencies of this state to encourage a more unified system of criminal justice.

615-A:2 Establishment. There is hereby established in the executive branch of the state government a department which shall be known as the department of corrections under the executive direction of a commissioner of corrections.

615-A:3 Definitions. In this chapter:

I. "Aftercare" means the services provided to a juvenile delinquent by the division of youth services after it has been determined that the youth may be allowed out of the juvenile institution or facility and released into the community with conditions and/or mandatory supervision requirements;

II. "Child" shall mean a person under the age of 18;

III. "Commissioner" means the commissioner of the department of corrections;

IV. "Community residential care" means live-in accommodations for offenders who, it has been determined by the department of corrections, need only minimum security and control yet require assistance in adjusting to the community and utilizing available resources and educational, training, or work opportunities within a community based and oriented facility;

V. "Correctional facility," "facility," "institution," or "prison" means any building, enclosure, space or structure used for the confinement of persons committed to the custody of the commissioner, or for any other matter related to such confinement;

VI. "Delinquent" means a child who has committed an offense before reaching the age of eighteen years which would be a felony or misdemeanor under the criminal code of this state if committed by an adult, or who is a child who has violated the terms of probation and is expressly found to be in

need of counseling, supervision, treatment, or rehabilitation as a consequence thereof;

VII. "Department" means the department of corrections created by this act;

VIII. "Director" means the head of a division within the department of corrections;

IX. "Division" means a major component within the department of corrections;

X. "Governor and council" shall mean the governor with the advice and consent of the governor's executive council;

XI. "Inmate" means any person, not a child, committed to the custody of the commissioner pursuant to the law of the state and subsequently committed to a correctional facility;

XII. "Juvenile detention" means the temporary care of juvenile delinquents who require secure custody for their own or the community's protection in a physically restricting facility;

XIII. "Law" includes the laws and ordinances of the state, its political subdivisions and municipalities;

XIV. "Local facility" means a temporary holding facility, police lock-up, or other facility for the detention of persons operated by a unit of local government;

XV. "Noninstitutional agency" means an agency or component of the department of corrections in which there is no physical confinement, such as probation or parole, or any private agency having a contractual relationship with the department of corrections;

XVI. "Offender" means any person convicted of a crime or offense under the laws of this state;

615-A:4 Purpose of the Department of Corrections.

I. To establish, maintain and administer such state correctional facilities and programs as may be required for the custody, control, correctional treatment and rehabilitation of committed persons, and for the safekeeping of such other persons as may be committed to the commissioner in accordance with law;

II. To operate diagnostic and treatment programs, and such other programs deemed desirable to treat persons committed to the commissioner and to further other purposes and objectives of this act;

III. To administer the supervision of persons placed on probation and released on parole or aftercare, and to administer probation, parole and aftercare services;

IV. To employ, train and educate such officers, employees and agents as deemed necessary to discharge the functions of the department;

V. To establish standards and goals for the management, operation, personnel and programs of all state correctional facilities;

VI. To act in an advisory capacity in assisting law enforcement agencies and communities in the prevention of crime and delinquency;

VII. To enforce and administer such other laws as may apply to the department;

VIII. To adopt such regulations not inconsistent with the provisions of this chapter as it may deem necessary.

615-A:5 Commissioner; Appointment. The head and chief executive officer of the department shall be a commissioner, who shall be known as the commissioner of corrections. The commissioner shall be appointed by the governor and council and shall serve for a term of 5 years, unless sooner removed for cause. The commissioner shall be qualified for his position by character, personality, ability, education, training, and successful administrative experience in the correctional field. He need not be a resident of the state of New Hampshire when appointed. The commissioner shall be exempt from the classified service of the state, and shall be compensated in accordance with RSA 94:1-a, as amended. The commissioner shall devote his entire time to the performance of his duties.

615-A:6 Powers, Duties and Functions of the Commissioner.

I. The commissioner shall appoint with the advice and consent of the governor and council 2 deputy commissioners to serve for a term of 4 years unless sooner removed for cause. One deputy commissioner shall serve as deputy commissioner for operations and one deputy commissioner shall serve as deputy commissioner for administration. The deputy commissioners shall be exempt from the classified service of the state, and shall be compensated in accordance with RSA 94:1-a, as amended. Each deputy shall exercise such powers and perform such duties as the commissioner shall prescribe. The deputy commissioner for operations shall exercise the powers and perform the duties of the commissioner during his disability or absence.

II. The commissioner shall have the authority to establish, organize and maintain in the department such administrative

divisions to perform all necessary personnel, planning, budget and finance, facilities and equipment services for the department and to assign such personnel thereto as he shall deem necessary. III. The commissioner shall have the authority:

(a) To contract with the federal government for the transfer or reception of an inmate, when in his opinion, the inmate needs particular treatment or special facilities.

(b) To order the assignment and transfer of persons committed to the custody of the commissioner to correctional facilities;

(c) To establish, consolidate or abolish divisions within the department, and to establish, consolidate or abolish bureaus, special units and other subdivisions in any division;

(d) To accept and receive, on behalf of the department or any facility thereof, any bequest or gift of personal or real property made to the department or any facility thereof, and to hold and use the property for the purposes specified in such bequest, devise or gift;

(e) To cooperate with and accept funds from the federal government or any agency thereof for the purpose of exercising the powers and responsibilities stated in this section;

(f) To contract for services or purchase, lease or rent real or personal property to carry out the function of the department;

(g) To transfer appropriations or parts thereof within or between divisions, consistent with the purposes for which the appropriation was made;

(h) To transfer classified positions within or between divisions subject to applicable personnel laws and regulations;

(i) The commissioner of corrections may, in accordance with the Administrative Procedures Act, RSA 541-A, promulgate such rules and regulations as are necessary to effectuate the purpose of this chapter.

IV. In order to implement properly and effectively the mandates of this chapter and the department created thereunder, the commissioner shall have the following powers and duties;

(a) To administer the work of the department;

(b) To establish major operating divisions within the department as is necessary and appropriate and to appoint directors of such division;

(c) To contract with, appoint and remove such administrative, research, technical, legal, clerical, advisory and other

personnel as may be appropriate to implement the provisions of this act;

(d) To perform, exercise, and discharge the functions, powers and duties of the department through such divisions as may be established by this act or otherwise by law;

(e) To formulate, adopt, issue and promulgate, in the name of the department such rules and regulations for the efficient conduct of the work and general administration of the department, the institutions or noninstitutional agencies within its jurisdiction, its officers and employees as may be authorized by RSA 541-A, and any other applicable statutes;

(f) To determine all matters of policy and regulate the administration of institutions or noninstitutional agencies within his jurisdiction, correct and adjust the same so that each shall function as an integral part of a general system. The rules, regulations, orders and directions promulgated by the commissioner for this purpose shall be accepted and enforced by the executive having charge of any institution or group of institutions or non-institutional agencies or any phase of work within the jurisdiction of the department;

(g) To make a biennial report to the governor and to the legislature of the department's operations for the preceding fiscal year, and render such other reports as the governor and council shall from time to time request or as may be required by law;

(h) To maintain suitable headquarters for the department and such other quarters as he shall deem necessary to the proper functioning of the department;

(i) To develop and from time to time revise and maintain a comprehensive master plan for the state's correctional system which shall indicate, among other things, the department's goals, objectives, resources and needs;

(h) To provide for the separation of juvenile offenders from the adult offender population and the development of programs and services for juveniles which promote their rehabilitation and recognize their special needs;

(k) To promulgate such rules and regulations necessary to insure that no state or federal constitutional rights of any person are abridged.

(l) To ensure that uniform minimum standards and rules are established for county houses of corrections and establish a means for the inspection of those facilities on at least an annual basis, to ensure their compliance with the standards set.

The commissioner shall publish the results of the inspections as well as statistical and other data, and shall recommend changes necessary to enable county houses of correction to meet state established standards;

(m) To exercise all powers and perform all duties necessary and proper in carrying out his responsibilities and in fulfilling the purposes and objectives of this chapter.

615-A:7 Commissioner; Institution of Legal Proceedings. The commissioner may institute or cause to be instituted such legal proceedings or processes as may be necessary to enforce properly and give effect to any of his powers or duties; for the purpose of any such investigation, he may cause to be examined under oath any and all persons whatsoever and compel by subpoena the attendance of witnesses and the production of such books, records, accounts, papers and other documents as are appropriate. If a witness fails without good cause to attend, testify or produce such records or documents as are directed in the subpoena, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons or subpoena issued from a court of record in this state.

615-A:8 Commissioner; Visitations and Inspections. The commissioner shall maintain personal contact with each of the institutions and the work of the noninstitutional agencies by visitations and by such other means as he may determine to be necessary and proper, so that he may keep informed concerning the general conditions and progress of the several institutions and non-institutional agencies and the general results of the management thereof and the condition and welfare of the inmates and other persons committed or admitted. The commissioner shall visit and inspect each state institution semiannually and each county house of corrections at least annually, at periods which shall not be fixed in advance.

615-A:9 Deputy Commissioner for Operations. The deputy commissioner for operations shall be appointed by the commissioner with the advice and consent of the governor and council, and shall serve for a term of 4 years unless sooner removed for cause. The deputy commissioner shall be exempt from the classified service of the state, and shall be compensated in accordance with RSA 94:1-a, as amended. Under the supervision of the commissioner, the deputy commissioner for operations shall be charged with supervising and administering the following divisions:

I. The division of youth services which shall include, but not necessarily be limited to juvenile detention, juvenile community residential services, aftercare services and the youth development center.

II. The division of probation, which shall include, but not necessarily be limited to juvenile and adult probation services.

III. The division of adult services, which shall include, but not necessarily be limited to the state prisons, community residential care, parole, and county diagnostic and liaison units.

615-A:10 Deputy Commissioner for Administration. The deputy commissioner for administration shall be appointed by the commissioner with the advice and consent of the governor and council, and shall serve for a term of 4 years unless sooner removed for cause. The deputy commissioner shall be exempt from the classified service of the state, and shall be compensated in accordance with RSA 94:1-a, as amended. Under the supervision of the commissioner, the deputy commissioner for administration shall establish, organize and maintain such administrative divisions to perform all necessary personnel, planning, research and evaluation, budget and finance, training, grant management, interstate compact and domestic relations functions.

615-A:11 Directors. A director shall administer each division within the department of corrections. The commissioner shall in conjunction with the state personnel director select the directors for divisions which are part of the department of corrections. Each director of a division shall be qualified for his position by character, personality, ability, education, training and successful administrative experience in the field of the respective division. A director who is in office on the effective date of this act shall continue in office in accordance with the provisions of law. Each division and its officers and employees shall be under the direction and control of the commissioner. No rule or regulation may be issued by a director of a division without the approval of the commissioner of corrections. The directors shall exercise such powers and perform such duties as the commissioner of corrections may delegate to them.

615-A:12 Superintendent and Warden, Appointment. The commissioner shall in conjunction with the state personnel director select the superintendent and deputy superintendent

of the youth development center, and the warden and deputy warden of the state prison. The provisions of RSA 615-A:11 shall also apply to this section.

615-A:13 Division of Youth Services. Subject to the supervisory authority conferred by this act upon the commissioner, the division of youth services under the direction of the director shall be charged with the supervision of state correctional institutions and non-institutional correctional agencies for the custody, control, treatment, and rehabilitation of juvenile delinquents, and with the planning and establishment of facilities and programs for the treatment and rehabilitation of juvenile delinquents.

615-A:14 Division of Adult Services. Subject to the supervisory authority conferred by this act upon the commissioner, the division of adult services under the direction of the director shall be charged with the efficient and humane maintenance, operation and security of the respective facilities and non-institutional agencies, and with establishing rules and regulations necessary to provide for the custody, care, discipline, training and treatment of adults assigned thereto.

615-A:15 Division of Probation. Subject to the supervisory authority conferred by this act upon the commissioner, the division of probation under the direction of the director shall be charged with the administration of probation services in the state including, but not limited to, establishing probation policies, standards and services in the state.

615-A:16 Transfer of Facilities. The following facilities of the state including all functions, powers and duties, are hereby transferred to the department of corrections and commissioner established by this chapter: State Prison, Concord, Youth Development Center, Manchester. Any state institution and satellite facilities heretofore or hereafter established or acquired for any purpose similar to the above institutions and agencies shall be assigned to and maintained and operated by the department of corrections and the commissioner of corrections as established by this chapter.

615-A:17 Transfer of Functions, Powers and Duties. All functions, powers and duties of the existing department of parole, probation, the state prison and the youth development center are hereby transferred to the department of corrections and commissioner as established by this act. The functions, powers and duties of the state parole board shall continue pursuant to RSA 651:37 through RSA 651:54.

615-A:18 Commitment to Custody of Commissioner. When a person is convicted of an offense and the court commits him to a term of imprisonment, the commitment shall be to the custody of the commissioner. The commissioner shall have the authority to designate the place of confinement where the sentence shall be served. Whenever in this chapter or in any other law reference is made to the sentencing or confinement of adults or commitment of juveniles to any correctional facility under authority of the department, such reference shall be construed to mean sentencing or confinement to the custody of the commissioner rather than to any particular facility of the department.

615-A:19 Commitment of Adults. The commissioner shall assign a newly committed adult inmate to an appropriate institution. The commissioner may transfer an inmate from one institution to another, consistent with the commitment and in accordance with treatment, training and security needs. The sentence of imprisonment of any adult convicted of an offense shall commence to run from the date on which such person is received at a correctional facility. If any such person shall be committed to a local jail or other place of detention to await transportation to the place in which his sentence is to be served, his sentence shall commence to run from the date on which he is received at such local jail or other place of detention.

615-A:20 Commitment of Delinquents. Commitment of delinquents shall be to the commissioner of corrections. The commissioner shall assign a newly committed delinquent to an appropriate facility. He may transfer committed delinquents from one institution to another, consistent with the commitment and in accordance with treatment, training, and security needs, except that no delinquent may be housed in any institution containing adult offenders sentenced by a criminal court.

615-A:21 Female Inmates. Females committed to the commissioner of corrections shall be housed in appropriate institutions or quarters which shall be separate from those for males.

615-A:22 Transfer Between Facilities.

I. The commissioner may transfer any inmate committed to his custody between any of the following facilities:

- (a) State to state facility
- (b) County to state facility
- (c) State to county facility

(d) County to county facility

II. Such transfers may be made if the commissioner determines that the person cannot be kept properly or safely at the correctional facility at which he is confined or that such transfer is in the best public interest or further legitimate penalogical objectives.

615-A:23 Transfer to the Department of Mental Health.

I. If the commissioner determines that a person committed to his custody manifests a mental illness requiring treatment, the commissioner shall have the authority to transfer the person to the department of mental health in accordance with the provisions of chapter 135-b.

II. When a person is so transferred he shall be subject to the supervision of the commissioner of mental health except that the time during which he is in the custody of the commissioner of mental health shall be computed as part of the term for which he was sentenced.

III. When the commissioner of mental health determines that a person whose sentence has not expired no longer requires to be under the supervision of the department of mental health he shall return the person to the custody of the commissioner of corrections.

615-A:24 Expense of Transfers. The expense of transferring and maintaining such persons transferred by the commissioner shall be assumed by the state department of corrections except in the following instances:

I. The commissioner may transfer any person serving a sentence at a county house of corrections to another county house of corrections or to a state correctional facility in accordance with RSA 615-A:22. Such expense of transfer and maintenance shall be assumed by the transferring county, except in the case where the person to be transferred was initially assigned by the commissioner to serve his sentence at a state facility. Under these circumstances, no county reimbursement shall be made to the state. The expense of transfer and maintenance of such persons at the state facility shall be assumed by the state.

II. The commissioner may transfer any person serving a sentence at a state institution to a county house of correction in accordance with RSA 615-A:22. The expense of transfer and maintenance shall be assumed by the state department of corrections, except in such a case where the person to be transferred was initially assigned to a county house of correc-

tions, and was then transferred to a state facility. Under these circumstances, no state reimbursement shall be made to the county. The expense of transfer and maintenance of such persons at the county house of corrections shall be assumed by the county.

615-A:25 Treatment and Care of Inmates. Persons committed to the institutional care of the commissioner of corrections shall be dealt with humanely, with efforts directed to their rehabilitation and return to the community as safely and promptly as practicable. To achieve these goals, the commissioner shall establish programs of classification, diagnosis, education, casework, counseling, therapy, vocational training, guidance, work, library and other appropriate rehabilitation services. The department shall establish and maintain standards for the health and medical services for each correctional facility. When deemed advisable by the commissioner, and inmate may be taken to a medical facility outside the boundaries of the correctional facility wherein he is confined.

615-A:26 County Diagnostic and Liaison Unit. There is hereby established a county diagnostic and liaison unit which, at the direction of the commissioner, shall perform the following functions and services:

- I. Provide diagnostic services for prisoners recommended for such by the personnel of county houses of corrections and approved by the commissioner or his designee, to include but not necessarily be limited to psychological and educational testing and the development of individualized treatment programs for inmates, to include alcohol and drug counseling.

- II. Establish uniform minimum standards and rules for the operation of county houses of correction and ensure compliance with those standards and rules.

- III. Provide community resources referral services to the county houses of correction and aid them in identifying and more efficiently utilizing existing resources.

- IV. Make recommendations based on comprehensive evaluation to the commissioner relative to the transfer of inmates from county to state facilities or from one county house of correction to another county house of correction.

615-A:27 Advisory Council; Established. There is hereby established an advisory council on corrections to consult with and advise the commissioner. The advisory council shall consist of seven citizen members who shall be residents of this state to be appointed by the governor and council.

The members appointed by the governor pursuant to this chapter shall be appointed for terms of 4 years; provided, however, of the members first appointed, 2 shall be appointed for a term of 4 years; 2 for a term of 3 years; 2 for a term of 2 years; and one for a term of one year. All appointed members shall continue to serve after the expiration of their terms until their successors are appointed and shall qualify. In the case of a vacancy, a new member shall be appointed for the remainder of the unexpired term. Members of the advisory council shall receive no compensation for services but shall be reimbursed for actual necessary and reasonable expenditures incurred in the performance of their duties. The governor shall annually appoint a chairperson from among the membership.

615-A:28 Advisory Council; Meetings. The advisory council shall meet at least quarterly at the call of the chairman or commissioner. The commissioner shall attend any meeting of the council.

615-A:29 Advisory Council; Duties. The advisory council shall consult with and make recommendations to the commissioner of corrections with respect to policy, programs and operations of the department of corrections. The advisory council shall submit to the governor and council an annual report of the activities of the department and such other reports as the governor and council may request.

615-A:30 Reports. Unless explicitly provided otherwise in this chapter or by any operative law, whenever, pursuant to existing law, reports, certifications, applications or requests are required or permitted to be made to any division, bureau, board or other agency, whose powers and duties are herein assigned or transferred to the department of corrections created by this chapter, such reports shall hereafter be required to be filed with, and such applications or requests shall hereafter be made to the department of corrections created by this chapter.

2 Effect of Prior Rules and Regulations. This act shall not affect the orders, rules and regulations heretofore made or promulgated by any division, bureau, board or other agency, the functions, powers and duties of which have been herein assigned or transferred to the department of corrections or to any agency designated, continued or constituted under this act; but such orders, rules and regulations shall continue with full force and effect until amended or repealed pursuant to the act.

3 Effect of Prior Actions or Proceedings. This act shall not affect actions or proceedings, civil or criminal, brought by or against any division, bureau, board or other agency, the functions, powers and duties of which have been herein assigned or transferred to the department of corrections or to any agency designated, continued or constituted under this act, and pending on the effective date of this act.

4 Transfer of Appropriations. All appropriations, grants and other monies available and to become available to any division, bureau, board or other agency, the functions, powers and duties of which have been assigned or transferred under this act, are hereby transferred to the department of corrections established hereunder, and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by state or federal law.

5 Transfer of Employees. Such employees of any department, division, bureau, board or other agency, the functions, powers and duties of which have been herein assigned or transferred to the department of corrections or to any agency designated, continued or construed hereunder, are hereby transferred to the department or agency to which such functions, powers and duties have been herein assigned or transferred.

Nothing in this act shall be construed to deprive any person of any tenure rights or any right or protection provided him by state law, state personnel law and regulations, or under any pension law or retirement system.

Any employee not appointed or transferred pursuant to this act may exercise any special reemployment and layoff rights as outlined in the state personnel laws and regulations which would have been available to said employee if the department of corrections had not been established.

6 Transfer of Records, Equipment. All files, books, papers, records, equipment, supplies, service contracts and other property of any department, division, bureau board or other agency, the functions, powers and duties of which have been herein assigned or transferred to the department of corrections or to any agency designated, continued or constituted by this act, shall upon the effective date of this act be transferred to the department or agency to which such assignment or transfer has been made hereunder.

7 Transfer and Abolition of Boards. The following state

boards are hereby abolished: State Prison Board of Trustees, Youth Development Center Board of Trustees and State Board of Probation. All the powers, functions and duties of the above said boards are hereby transferred to and vested in the commissioner of corrections. The tenure of members of the above abolished boards shall terminate upon the appointment and qualification of the commissioner of corrections as established by this act.

8 Reference to Department of Corrections and Commissioner.

I. With respect to the functions, powers and duties hereby transferred to the department of corrections, whenever in any law, rule, regulation, judicial or administrative proceeding or otherwise, reference is made to the state prison, youth development center, department of probation or department of parole, the same shall mean and refer to the department of corrections and the commissioner as created by this act. The following sections of the revised statutes annotated are hereby amended accordingly:

RSA 10:1
RSA 135:28
RSA 169:14
RSA 504:15
RSA 504:15-a
RSA 504:16
RSA 504:17
RSA 504:18
RSA 621:11
RSA 621:12
RSA 621:13
RSA 621:14
RSA 621:15
RSA 621:16
RSA 621:19
RSA 621:19-b
RSA 621:21
RSA 621:22
RSA 621:23
RSA 622:11
RSA 622:12
RSA 622:13
RSA 622:14
RSA 622:30

RSA 622:37

RSA 651:9

RSA 651:22

RSA 651:45

RSA 651:47

II. With respect to the functions, powers and duties hereby transferred to the commissioner under section 7, whenever in any law, rule, regulation, judicial or administrative proceeding or otherwise, reference is made to the state prison board of trustees, the youth development center board of trustees and the state board of probation, the same shall mean and refer to the commissioner of corrections as created by this act. The following sections of the revised statutes annotated are hereby amended accordingly.

RSA 504:13

RSA 504:14

RSA 504:15

RSA 621:26

RSA 621:28

RSA 622:5

RSA 504:17

RSA 502:18

RSA 504:19

RSA 621:4

RSA 621:5

RSA 621:7

RSA 621:13

RSA 621:14

RSA 621:15

RSA 621:17

RSA 621:18

RSA 621:19-a

RSA 621:20

RSA 621:21

RSA 621:22

RSA 622:7

RSA 622:7-a

RSA 622:14

RSA 622:15

RSA 622:20

RSA 622:21

RSA 622:24

RSA 622:29

RSA 622:31
 RSA 622:32
 RSA 623-A:1
 RSA 623-A:3
 RSA 651:38
 RSA 651:40
 RSA 651:42

9 Unclassified Salary. Amend RSA 94:1-a, as amended, by inserting in the proper alphabetical order the following: Commissioner of Corrections \$30,466 to \$33,591; Deputy Commissioner for Operations \$27,342 to \$31,508; and the Deputy Commissioner for Administration \$17,552 to \$19,713.

10 Classified Employees. Within 4 years following the effective date of this act, all employees of the department of corrections other than the commissioner and deputy commissioners shall become classified employees of the state. Those unclassified personnel within the department who are to become classified employees shall continue to be recompensed in accordance with RSA 94:1-a, as amended, until such time as they become classified employees of the state.

11 Appropriation. For the purposes of this act, the sum of \$209,728 is appropriated for the fiscal year ending June 30, 1978, and the sum of \$261,675 is appropriated for the fiscal year ending June 30, 1979 to be spent by the department of corrections as follows:

For Department of Corrections:

	Fiscal Year 1978	Fiscal Year 1979
Administration:		
Salary of Commissioner	\$30,466.	\$31,508.
Salary of Deputy Commissioner for Operations	27,342.	30,119.
Salary of Deputy Commissioner for Administration	17,552.	18,992.
Other personal services:		
Permanent	31,140.	35,176.
\$106,500.	<u>\$115,795.</u>	<u></u>
Current Expenses	760.	760.

Equipment	13,493	-0-
Fringe (15% of personal services)	15,975.	17,370.
Contractual (Transfer per diem expense)	73,000.	127,750.
	<u>\$209,728.</u>	<u>\$261,675.</u>

The governor may draw his warrant for these appropriations out of any money in the treasury not otherwise appropriated.

12 Repeal. I. RSA 10:2 relative to appointment of trustees to YDC and state prison is hereby repealed. II. RSA 10:3 relative to meetings of YDC and prison board of trustees is hereby repealed. III. RSA 504:7 relative to creation of board of probation is hereby repealed. IV. RSA 504:8 relative to duties of board of probation is hereby repealed. V. RSA 504:9 relative to appointment of director of probation is hereby repealed. VI. RSA 504:10 relative to accommodations and personnel within the department of probation is hereby repealed. VII. RSA 619:5 relative to commitment to county houses of corrections is hereby repealed. VIII. RSA 620:12 relative to transfer of prisoners by county commissioners is hereby repealed. IX. RSA 621:2 relative to the YDC board of trustees is hereby repealed. X. RSA 621:6 relative to appointment of YDC superintendent is hereby repealed. XI. RSA 621:8 relative to appointment of YDC deputy superintendent is hereby repealed. XII. RSA 621:24 relative to transfer of minors to state prison is hereby repealed. XIII. RSA 621:25 relative to transfer of minors to county institutions is hereby repealed. XIV. RSA 621:27 relative to written orders authorizing transfer of child is hereby repealed. XV. RSA 622:3 relative to appointment of deputy warden is hereby repealed. XVI. RSA 622:33 relative to prison board of trustees authority to contract is hereby repealed. XVII. RSA 622:34 relative to transfer of inmates by the prison board of trustees is hereby repealed. XVIII. RSA 622:34-a relative to expense of transfers is hereby repealed. XIX. RSA 622:36 relative to prison board of trustees authority to contract is hereby repealed. XX. RSA 623:2 relative to transfer of inmate from prison to county is hereby repealed. XXI. RSA 623:3 relative to transfer of inmate from county to state prison is hereby repealed. XXII. RSA 623:4 relative to authorization of a transfer is hereby repealed. XXIII. RSA 651:15 relative to sentence being served in state

prison is hereby repealed. XXIV. RSA 651:16 relative to sentence being served in solitary confinement is hereby repealed. XXV. RSA 651:17 relative to sentence being year or less or sentence to hard labor is hereby repealed. XXVI. RSA 651:19 relative to work release by sentencing court is hereby repealed. XXVII. RSA 651:23 relative to change of place of confinement by the court is hereby repealed.

13 Real Estate. Amend RSA 10:4, as amended by striking out said section and inserting in place thereof the following:

10:4 Acquisition and Disposal of Real Estate for Institutions. Upon request of the director of the division of mental health or the director of the division of public health services or the commissioner of the department of corrections, the governor and council may buy, sell, or exchange institutional lands for any of the institutions or agencies named in RSA 10:2 over which the requester has jurisdiction, and at the request of any of the above or that of the trustees of the New Hampshire college of agriculture and the mechanic arts, may institute proceedings for the taking of land for institutional purposes by eminent domain; and the procedure for that purpose shall be the same and the value of the land shall be determined as in cases of land taken for highways upon petition to the superior court. On the payment of the value as finally determined, the title to the land so taken shall vest in the state.

14 Director of Probation. Amend RSA 504:5 (supp) as amended by striking out said section and inserting in place thereof the following:

504:5 Transfers. A court, or the commissioner of corrections, through the director of probation, may, when justice or convenience requires, transfer a person on probation from the supervision of one probation officer to that of another.

15 Powers and Duties of Probation Officers. Amend RSA 504:15 (supp) as amended by striking out said section and inserting in place thereof the following:

504:15 Powers and Duties. The duties of probation officers shall be:

I. To investigate at the request of any court any case, matter, or question, whether then pending or not, and to report to such court the result of such investigation, with recommendations.

II. To take charge of such persons before, at and after hearing of their cases as the court may direct, and to perform any

duties as probation officers assigned to them by the board or any court. Unless otherwise ordered by the court, transportation of persons to agencies or institutions to which they may be committed shall be the duty of state and municipal police or sheriffs' departments and not probation officers.

III. To supervise persons released on parole by any institution, if so requested by such institution, on such terms and conditions as may be agreed to by the board.

IV. To receive under supervision, upon the request of any court, any person placed on probation, or in the discretion of the commissioner, any person ordered to pay any sums for support in a judgment of divorce, legal separation, non-support, or support for children born of unwed parents, or ordered to allow visitation rights in a judgment of divorce or legal separation.

V. To keep informed concerning the conduct and conditions of persons on probation and compel their obedience to the orders of the court.

VI. To keep detailed records of each case, accounts of all money collected and disbursed, and to give and obtain receipts therefor, and to make such reports to the courts and to the board as they may require.

VII. To perform any duties as probation officers assigned to them by the board or court or which are within their general purview as probation officers. In the performance of these duties, probation officers shall be considered to be officers of the court.

16 Commitments. Amend RSA 619:4 by striking out said section and inserting in place thereof the following:

619:4 Commitments; County Liability Where Commitment is to Jail in Another County. Commitments of persons held for trial or for any other cause may be made to any jail not closed, as designated by a justice of the superior court; if to a jail in another county, the county from which they are committed shall pay the county maintaining the jail a reasonable sum for their care and board, said sum to be determined in case of disagreement by the superior court.

17 Removal of Prisoners. Amend RSA 619:15 by striking out said section and inserting in place thereof the following:

619:15 Removal of Prisoners Because of Epidemic, or Repairs to Jail. Whenever, on account of the prevalence of disease, or the rebuilding or repairing a jail or other cause, the sheriff shall think it expedient that the prisoners be removed

therefrom, the commissioner of corrections may order the removal of those prisoners confined in the house of correction to another facility available to the department of corrections. In the case of prisoners confined to jail, any two justices of the superior court may order their removal to some other jail in the same or another county, there to be detained, in the same manner and by the same process as in the jail from which they were so removed, until removed by similar process or discharged according to law.

18 State Prison. Amend RSA 622:2 by striking out said section and inserting in place thereof the following:

622:2 Warden. It shall be under the superintendence and general management of a warden subject to the supervisory control of the commissioner.

19 Committals to Prison. Amend RSA 622:8 by striking out said section and inserting in place thereof the following:

622:8 Committals. Whenever any convict shall be sentenced to confinement at hard labor the court shall order the sheriff of the county to remove him to the facility designated by the commissioner and deliver him to the appropriate authorities at such facility.

20 Mittimus. Amend RSA 622:9 by striking out said section and inserting in place thereof the following:

622:9 Mittimus; Return. The clerk of court shall deliver a copy of the conviction, judgment and order thereon to the sheriff, who shall deliver the same, with a copy of his return indorsed thereon, to the appropriate authority within the department as designated by the commissioner and shall make due return to the court of service of the order, upon an attested copy thereof.

21 Federal Prisoners. Amend RSA 622:10 by striking out said section and inserting in place thereof the following:

622:10 United States Prisoners. The commissioner shall receive all convicts sentenced to confinement to hard labor by any court of the United States within this state, who may be delivered to him by the marshal or the district or his deputy, and shall safely keep such convicts until discharged by due course of the laws of the United States.

22 Civil Process. Amend RSA 622:17 by striking out said section and inserting in place thereof the following:

622:17 Committal of One Held on Civil Process. If any convict sentenced to confinement to hard labor or solitary imprisonment shall, at the time of his sentence, be in custody of

the sheriff on civil process, mesne or final, the sheriff shall, on the delivery of such convict to the appropriate authority within the department designated by the commissioner, leave with that person an attested copy of such process.

23 Detention. Amend RSA 622:18 by striking out said section and inserting in place thereof the following:

622:18 Detention of One Held on Civil Process. The commissioner shall detain the convict, as well by virtue of such process as of his sentence, and if at the expiration of the sentence such process shall not be withdrawn, discharged, satisfied, or annulled, shall still detain him thereon, until he is discharged or remanded whence he came by due course of law.

24 Interstate Compact. Amend RSA 622-A:3 (supp) as inserted by 1961, 101:1 by striking out in line one the words "warden of the state prison" and inserting in place thereof the following (commissioner) so that said section shall read as follows:

622-A:3 Authority. The commissioner is hereby authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular.

25 Prisoner's Illness. Amend RSA 623:1 (supp) as amended by striking out said section and inserting in place thereof the following:

623:1 Illness, etc. Any person not in custody of the commissioner of corrections may, under such precautions and for such time and purpose as any justice of the superior court or the governor may order, be temporarily taken by some regular or specially authorized officer from such place of detention because of his own extremely critical illness, or the imminently approaching death, or the funeral of a member of his immediate family, or for such imperative and extraordinary purpose as shall be deemed justifiable and humane by said justice, or the governor, to whom application is made. Whenever any such person so confined by order of justice of the superior court shall be transferred to the New Hampshire hospital except on order of the justice of the superior court who originally ordered his commitment, the administrator of the institution from which he shall be transferred shall give written notice of such transfer to the justice who originally ordered such commitment within 5 days of such transfer, and said administrator shall likewise give notice to such justice upon the return of such person from New Hampshire hospital.

Whenever such transfer is ordered except by the presiding justice for the county from which commitment was originally ordered, the presiding justice for that county shall likewise be notified of any transfer to or from the New Hampshire hospital.

26 Reduction of Sentence. Amend RSA 651:18 as inserted by 1971, 518:1 as amended by striking out said section and inserting in place thereof the following:

651:18 Place; Reduction in Sentence. Any prisoner whose conduct while in jail or in the house of correction has been meritorious may be issued a permit and discharged by the keeper of the jail or the superintendent of the house of correction when he has served $\frac{2}{3}$ of his minimum sentence, provided it shall appear to the keeper of the jail or the superintendent of the house of correction to be a reasonable probability that he will remain at liberty without violating the law and will conduct himself as a good citizen.

27 Incarceration. Amend RSA 651:20 as inserted by 1971, 518:1 by striking out said section and inserting in place thereof the following:

651:20 Incarceration Under Suspended Sentence. Notwithstanding any other provision of law, the sentence to custody of the commissioner of any person may be suspended, at the time of sentence or at any time while any part thereof remains unserved, and he may be required to report to the institution to which he has been assigned to be incarcerated during weekends or at such times or intervals of time as the court may direct. Time spent in said custody shall be deducted from the maximum term, and where there are both a minimum term and a maximum term, from both. Any part of a day so spent shall count as a full day toward the sentence. In no event shall the number of days confinement exceed the number of days in the minimum term, where there is one, or in the maximum term.

28 Escape. Amend RSA 651:24 as inserted by 1971, 518:1 by striking out said section and inserting in place thereof the following:

651:24 Failure to Report Deemed Escape. Any person ordered confined under RSA 651:20 or 21 who willfully fails to report for confinement as ordered shall be deemed to have escaped from the institution to which he has been assigned and upon conviction shall be subject to the punishment provided for escape therefrom.

29 Release. Amend RSA 651:25 as inserted by 1971: 518:1, as amended by striking out said section and inserting in place thereof the following:

651:25 Work Release.

I. The commissioner may release any person who has been committed to the custody of the commissioner at any time during the term of sentence for the purpose of obtaining and working at gainful employment or for such other purpose as may be deemed conducive to his rehabilitation, for such times or intervals of time and under such terms and conditions as may be prescribed by the department of corrections, provided, however, that a prisoner who has not served sufficient time to be eligible for parole may be released under this section only if the sentencing court has been notified of the proposed release and has not objected within 10 days of receipt of such notice. The commissioner may permit persons in his custody who volunteer to do so, to be gainfully employed outside the institution when such employment is considered in their best interest and the best interest of the state. Inmates may be so employed for the state or for public or private employers.

II. The rates of pay and other conditions of employment of a person released for work shall be the same as those paid or required in the locality in which the work is performed. An inmate so employed shall surrender to the commissioner his total earnings less payroll deductions authorized by law, including income taxes. After deducting from the earnings of each person an amount determined to be the cost of the person's keep, the commissioner shall:

(a) allow the person to draw from the balance a sufficient sum to cover his incidental expenses;

(b) credit to his account such amount as seems necessary to accumulate a reasonable sum to be paid to him on his release;

(c) cause to be paid such part of any additional balance as is needed for the support of the person's dependants and notify the overseer of public welfare of the town, in which the person's dependents reside, of such support payments;

(d) pay the balance to the person when he is released.

III. Any part of a day a prisoner is employed outside the institution shall count as a full day toward the serving of his sentence as though served inside the walls. An inmate so employed outside shall be subject to the rules and regulations

of the department and be under the direction and control of the employees thereof.

IV. If he escapes or fails to return to the custody of the department as required by the rules or the orders of the employees thereof, he shall be punished as provided by RSA 622:13. The commissioner may at any time recall a prisoner from such release status if he believes or has reason to believe the peace, safety, welfare, or security of the community may be endangered by the prisoner being under such release status. Any such prisoner recalled under this provision shall be allowed a hearing within the department within 15 days.

V. A prisoner authorized to work at paid employment in the community under this section may be required to pay, and the commissioner is authorized to collect, such cost incident to the prisoner's confinement as the commissioner deems appropriate and reasonable. Such collections shall be deposited with the state treasurer as a part of the general revenue of the state.

30 Parole Board. Amend 651:37, as amended by striking out said section and inserting in place thereof the following:

651:37 State Board of Parole. There is hereby established a state board of parole which shall be composed of 3 members. The members of the board shall be appointed by the governor with the consent of the council for terms of 5 years or until their successors are appointed, except that initially one member shall be appointed for a term of 5 years, one member for a term of 3 years and one member for a term of one year. The governor shall designate one member as chairman who shall serve in that capacity for the duration of his term. Any vacancy on the board shall be filled for the unexpired term. The board shall have responsibility for the parole decision process for inmates in the custody of the commissioner of corrections, subject to the applicable provisions of this chapter. The board shall establish such rules as necessary for the conduct of its duties and all necessary terms and conditions for the conduct of persons on parole. Each member of the board shall be paid the sum of \$25 a day for such time as he is engaged in his duties as a member of said board. The board shall keep a record of all doings and shall report thereon to the governor and council quarterly and oftener when by them required. The chairman shall designate one other member of the board to act as chairman in his absence. At least 2 members of the board shall be present at all hearings.

31 Effective Date. The provisions of this act shall become effective July 1, 1977. Anticipatory actions appropriate and necessary to effect the establishment of the department of corrections are authorized to be accomplished as promptly as possible in advance thereof including the making of authorized appointments and confirmation or approval thereof, and, within the limits of appropriations to the department, the expenditure of funds for payment of salaries and expenses incident thereto.

Amendment adopted.

(Senator Monier recorded in opposition.)

Senator Monier moved that **SB 303** as amended and the original bill be referred to a joint committee of executive departments for interim study.

Senator Monier requested a roll call. Seconded by Senator Downing.

The following senators voted yea: Lamontagne, Bergeron, Saggiotes, Monier, Healy.

The following senators voted nay: Poulsen, Smith, Gardner, Bradley, Jacobson, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Provost, Brown, Bossie, Fennelly, Downing, Preston, Foley.

5 yea 18 nay

Motion failed.

Referred to finance under rule No. 24.

SUSPENSION OF RULES

Senator Monier moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report on **SB 357** with only one day's notice in the journal.

Adopted.

SB 357, relative to sovereign immunity of the state. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President this is an agreed upon bill, and I don't like to use the term, with the Attorney General. We

have had several bills dealing with immunity in a variety of shapes. Theoretically what this will do is establish a sovereign immunity to the law of the state and it is very simple, it states that the doctrine of sovereign immunity of the state except as otherwise provided by the statutes is hereby adopted as the law of the state. It was written by the attorney general and we have his assurances that it is what we need and it is a companion bill, I think maybe that is the proper term for it. What we will be voting on SB 121 also incorporates the same language and incorporates the same kind of a thing in a specific instance so that there has been an agreement on this and I urge the senate to pass it.

Sen. TROWBRIDGE: I would just like to say so that people don't get further confused, SB 121 before the 19th. That was referred to finance and is the one that will deal with the state indemnifying its employees when they get sued. One of the problems in SB 121 is if you do indemnify your employee someone could construe it as a waiver of sovereign immunity. So SB 121 will also have the same language as this one in it, both drafted by Attorney General Souter so that there can be no mistaking the policy and I just don't want the senate to say, hey we have seen this before. You have seen it before and it is being done double-barreled in case one doesn't pass the other is sure to.

Sen. BRADLEY: I rise to speak about the bill. If the bill were simply by itself I would be standing up to vigorously oppose it because I don't believe in the doctrine of sovereign immunity. However, there is no sense in fighting that battle—we have fought it already. The bill, in conjunction with SB 121 and in conjunction with the bill establishing the court of claims is not a totally unreasonable system posture for the state to take. However, I guess I reserve the right to screen if we don't deal properly with both 121 and the court of claims bill. Because both of those bills are necessary from the state's point of view not from the litigants point of view, to take care of two very real problems that we have as a result of having the doctrine of sovereign immunity. One is the problem of their claims that clog up the legislature and the other is the problem of the poor employee who may be not guilty of anything worse than a slip of mind of memory or something and be sued for negligence and not be backed up by the state when what he was doing was in good faith and in the course of his employment and so forth. I think the state has to have the

mechanism in dealing with these claims and has to have a mechanism for dealing promptly and fairly with its own employees who can get sued no matter what you say about sovereign immunity.

Adopted. Ordered to third reading.

CACR 25, relating to: The Executive Council. Providing That: the executive council be abolished of its powers to confirm various appointments be vested in the Senate. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Once again, Mr. President, this was a bill that has come in at the last minute of the EDA which handled 32 bills in those two days. Those who appeared for it appeared in terms of desiring it. The executive council under this bill would be abolished and its powers to confirm various appointments would be vested in the senate. Several questions were raised at the committee and were answered in the following fashion. One, while they all understand on confirmations what would occur, because it has occurred in many other states, what would be the response to contracts and administrative decisions, with acceptance of grants and etc., and the answer is quite obviously if you remove the executive council from it, they would be vested in the power of the executive office. Confirmations under this constitutional amendment would remand to the whole senate not to a particular committee. And I am going to refer to Senator _____ if there is any question on that because that is my understanding on that. Three, did we actually want this in terms of it and the witnesses that appeared and those that appeared as sponsors of the bill indicated that they did feel that this was the type of thing that the state of New Hampshire should come to in terms of its modernization. On that basis, and no opposition to it as such the committee voted it ought to pass.

Sen. LAMONTAGNE: Mr. President, members of the senate, again, and I'll repeat it again, I have been here for 23 years and I don't believe that it is a proper thing to do to abolish the other branch any more than it is to abolish the senate. I personally feel that the choice of the people, when they go to the polls, choose the candidates that they want. It is left up to the people and I still say that the council should be left up to people to make a decision who they want. But to

abolish the council, Arthur has been working for many years and I don't believe in abolishing the executive council as has been done in this bill. I am definitely against it.

Sen. BOSSIE: I rise in opposition to the motion of the senator from District 1. I don't think there is anything sacred about the executive council and with that I start my opposition to this bill. It seems that in New England particularly, from the origins of our state, all of the New England states had executive councils, governors councils, and it is my understanding that the original reason was that a number of the governors were appointed by the kinds of England. Therefore, to have some local control, they would elect these and only of course the people with property would be the voters. So of course most of the people were disenfranchised. Now things have come a long way and New England has come a long way and all of the states have just about abolished the governor's council with the exception of Massachusetts, that has just about taken away all of their powers, so there is going to be a governor's council but they're not going to do anything. Maryland has taken away this past year, the powers of executive council and they have abolished it and they have given the confirmation powers jointly to the house and the senate. Now if we venture a little further westward you'll notice that there never existed a governor's council past west of the Mississippi river, it just never existed. So the fact remains that what we have now is an anachronism from the past. We don't have to go into personalities of the present councilors, past councilors or the future councilors. That is superfluous. We don't want that. What we should consider is that we elect a chief executive who's the governor. Now it's his purpose, and the reason why we voted for him, is to carry out the executive mandate. Sure he may make mistakes and if we look to the present there are many errors that the present governor has made. But the fact remains that by diversifying the power and dispersing it to five other individuals it doesn't government any better. And as we know what happens is that frequently on appointments, and this is very important, on appointments I have never heard of a public hearing. I know our good friend from District 3 formerly was an executive councilor, and I might add a pretty good one, the fact remains that quite often our executive councilors are nothing more than rubber stamps for the incumbent executive. It's fine if you are with him, but what you are there for is to have a check

and balance. And what has happened I am sure and I have never been privy to the little breakfasts that are held, nor to the motel room meetings, but I understand that a lot of wheeling and dealing goes on. I don't have any qualms about that—it goes on in the senate chamber—we have no qualm with that, but I think that if we're going to be able to have appointed by our executive branch, lifetime positions, then I see nothing wrong with having a public hearing on the nomination of the applicant. So those individuals, as per this bill, who have lifetime appointments, members of the judiciary and those that supervise a department of more than 9 employees, would be subject to the approval of the senate. Now you must admit, and as I was speaking to Senator Bradley, it would make a lot more interesting senate if we had this power. I would imagine that once this gets to the house the house might balk a little and they might want a little of this power and I am not going to say that politics will not enter into any decision of appointment of the senate—I'm not that naive. But I do know that it does enter into the decisions of the councilors when they do confirm appointments now. I see nothing wrong with it, I just say what is wrong with letting the sunshine in—why not have public hearings on these nominations. And with regards to the cost, I really don't have any great hangup with the councilor's charge of \$40/day and they have mileage and they go on all sorts of things and they go all around the state, approve highways and that sort of thing. This is something a department head can do. There is no reason why five people should have to waste their time doing that sort of thing when it is the governor whom we hold accountable. And if the governor can't get his nominations through then he has to live with them. You will note that this will be placed on the ballot November 1978 and it would take effect in 1981. The odds are that some of the councilors would not be available anyway and that the chief executive that we have now probably would not be a candidate at that time. So it would be a fresh start. I think the bill has merit and I would hope that my colleagues would vote against the motion to indefinitely postpone. I believe the bill has merit in and of itself or whether we adopt it five years from now it is something that should be done.

Sen. LAMONTAGNE: Senator, are you familiar with the agenda of the executive council—how much work they have?

Sen. BOSSIE: Yes and I realize that over the last few years it has gotten more.

Sen. LAMONTAGNE: Then how do you expect the business of the council to continue?

Sen. BOSSIE: I would propose it not continue. Most of these things are just rubber stamp sort of things—there's a contract, a bidding procedure, the lowest person gets it. Why not just have the executive sign the order? That's it. Why do you have all these five people approving what is done—there is no reason for it.

Sen. LAMONTAGNE: How do you expect the work to be done, all the work you have just admitted the executive council has more work than they ever had before. How do you expect the work to be done in the executive council?

Sen. BOSSIE: Senator you know as well as I do that the governor has all the staff; the governor can easily handle it. All he has to do is to sign his signature, or he says no, I'll veto it if it isn't approved. Just because there is a lot of work doesn't mean it's necessarily good work, it's a lot of busy work, paper work that need not be present.

Sen. LAMONTAGNE: You must be familiar I am sure, with all of the funds that the governor and council handle, especially in the odd years when the general court is not in session. How do you expect to get that work done?

Sen. BOSSIE: The governor's signature will do it; why have a bunch of other people confirming it. He is the chief executive. We are electing him to do it, if he can't do it let's boot him out. We need one person, not six, not five little sub-governors, lieutenant governors.

Sen. LAMONTAGNE: So you mean to tell me that you would favor all of the funds that have to go through the hands of the executive council would be placed into the hands of only man.

Sen. BOSSIE: yes.

Sen. LAMONTAGNE: There's something wrong with your head.

Sen. SMITH: I rise in support of the motion offered by Senator Lamontagne that this concurrent resolution be indefinitely postponed. Senator Bossie was very kind when he said I served on the council and I have, and I never want to do it again, but I cannot rise in support of this knowing of some of the things that the executive council does. Now some of what Senator Bossie talked about was letting the sunshine in. True, there are meetings where nominations are discussed but this would be true in the senate also. That senate committee hear-

ing nominations would go into executive session to discuss people, their characters, suitability who are filling certain positions. However, when you take the agenda of approving the contracts away from the council and allow it to be acted upon only the governor you are clouding over that sun that Senator Bossie talks about. All contracts in this state, between departments, between the state and federal government, between the state and private industry, have to be confirmed by governor and council. They are an agenda item and the agenda is given to the press each time so that everybody knows which contracts are being approved and which contracts are being disapproved and the reasons why. Now that is one very important area. The whole area of pardons which the governor and council now have. To leave with one man I think would be very unfortunate. Most states in the union have a pardon board, we don't. We would have to have another board, pardon board, established or give it to the parole board or leave it with the governor alone. It seems to me to have public hearings on pardons rather than just having a midnight pardon the way it is done on the federal level is a good thing which we have presently. Now all that is old is not bad and we may be the only state in the union that has an executive council which functions, and we are also the only state in the union that does not have a lieutenant governor—there are very few, only five states without a lieutenant governor. We have survived without a lieutenant governor. The most important aspect of why I rise to the defeat of this proposed constitutional amendment, is the very basic concept of our government, the separation of power. I know that in Washington the Senate confirms appointments, but I would say, that we are a part-time legislature. Appointments come along all during the year. I don't think members of this Senate want to be hauled back here for a confirmation of a member of the chiropractic board—I don't think they want to be brought back for other appointments. Now the basic concept here is the separation of powers and it has worked quite well. Let us tend to the legislative and let the executive do the appointments. Senator Bossie said the power of the senate would be greatly increased which is very true. But increased would also be the wheeling and dealing of senate and governor, I am not going to vote for your bill unless you appoint so and so to such a commission. And that kind of wheeling and dealing and trading is bad for legislature and it is bad for appointments and

for that reason I think that it is imperative that we continue on the road which I think our forefathers so wisely chose in maintaining the governor's council, rather than abolishing it and having these functions divided.

Sen. BOSSIE: Senator Smith, is it not true that historically, when the governor and council system was enacted, that the reason why councilors, who represented districts, would be a check on the governor, was because of a lack of communication in the State of New Hampshire? There were no telephones, no cars and so what the councilors would do would be to come to Concord to find out what the governor was up to and then go back up there to Plymouth to tell all the folks just what that governor was up to. And the one that was appointed by the king of England. Isn't that true?

Sen. SMITH: Yes that was true but I still think quite often we have that lack of communication between the governor and people and I think that it is possible, in having served on the council, I think that you communicate what is going on in the executive branch and the council. In addition, I had forgotten this point, this legislation in the past many times, to have something in this state like we have in Scandinavia, ombudsmen. Now the council serves to a great degree as an ombudsmen and helps people. The council helps people resolve their problems between the individual and state government in getting problems resolved, whether it is a problem with an executive department, and they can do it very effectively. It is also a check on the powers of the department heads. And it is for those very reasons why I think it is important that we continue with the council system.

Sen. LAMONTAGNE: Senator, assume that CACR 25 was adopted, on the statutes involved in the executive council, wouldn't they have to be changed?

Sen. SMITH: There would be many things, senator, that would have to be changed. And when you see on a constitutional amendment adopted of this nature—we have adopted other constitutional amendments—and found out afterwards that they did a few other things than what we had thought. But this adoption of a constitutional amendment of this nature, and as extensive as it is is a very significant change in our structure of government. It is not unlike dropping the proverbial pebble into the pool of water and the ripples that go out from it would be extensively and ones that neither you senator nor I could envision at this time.

Sen. HEALY: To speak, over the years I have observed the organization of the executive council. I speak in opposition to Senator Lamontagne's motion because of the effect also what Senator Smith had to say about wheeling and dealing within the senate chamber. I would say that that is very effective among the councilors from my observations over the years—we have had a biased council—a council that was either pro-governor or a council that was anti-governor. Currently we have a council that perhaps the best suggestion, the way to explain it might be that it is an oblique council. Nobody knows where the council stands today, whether they're democratic or republican. For many years living in this state, I have observed the makeup of the executive council and it has been strongly partisanship one way or the other and it has always been with the governor. Whatever the governor had to say or do he had the prerogative, if he wanted to sign a bill I'm sure that the councilors went along with it hook, line and sinker whether they liked it or not. I also see no objection to either—people do not have the right to vote on such as this. I think we are running a state of the people, for the people and therefore I go along with this change opposed by Senator Bossie. I'm strongly for it—give the people the right to say something about the business of the council and our government.

Senator Lamontagne moved to indefinitely postpone CACR 25.

Motion failed.

Question of ordering to third reading.

Senator Trowbridge requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Poulsen, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Healy, Provost, Bossie, Fennelly.

The following senators voted nay: Lamontagne, Smith, Gardner, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Brown, Downing, Preston, Foley.

10 yeas 13 nays

CACR 25 failed.

Senator Downing moved that CACR 25 be laid on the table.
Adopted.

CACR 26, relating to: County Officers. Providing That: The office of County Treasurer, County Attorney, and Sheriff be abolished. Refer to interim study. Senator Monier for the committee.

Sen. MONIER: CACR 26 was heard by executive departments, there was one person who stood up in favor of it, nobody else did. It has far-reaching ramifications in the abolishment of county government and transferring functions to appropriate state and local government. As a result, with the concurrence of the sponsor, the recommendation of the committee was that it ought to be referred to interim study at the EDA. I hope you will support that motion.

Sen. JACOBSON: Mr. President, I rise in support of this. As the chairman of the committee has said, the question of county government has very important ramifications. As all of you know, county government, when the constitution was adopted, was the most important unit of government. The state played a relatively minor role and what has happened is that the state has played an increasing role, we have maintained institutions such as county attorney, sheriff without giving attention to the fact, take for example the sheriff which was the police agency in the state when the constitution was formed and for many years thereafter. We have developed local police agencies, we have developed state police agency, and we still have county police agencies. I attended a meeting at which I spoke last evening, there were about 75 people there and there was a unanimous view that the whole system of county government ought to be examined and that has been my full intention. It may be that county government is still a good thing but I think the time has come that we should re-examine what the county government does in relation to what has happened with respect to state government and with respect to municipal government. Let me cite just a little example the other evening at a selectman's meeting. In terms of the CETA program, which some of you are acquainted with. We were talking with some of the representatives about providing employment opportunities in the area of New London. So I mentioned to her that a good deal of our work force and of the

people who would be available for this kind of work come from the town of Springfield. She said that "I can't do anything about the town of Springfield because that's in Sullivan county and we can't have any crossing over of county lines. Whereas as Springfield's whole direction is towards New London which is Merrimack county. I could go on with other examples but I don't want to take the time. What I am saying is that we should study this whole problem of county government is. It was suggested at this meeting last evening, that we ought to look into the question of regionalism as against the present county system. I think that is a solid kind of suggestion because we need to look into this problem if for no other reason than we have duplication of services, we have rapidly escalating costs and that's what I would like to do. Maybe the county government can clearly validate itself but I think that we ought to examine, the legislature ought to examine it and come up and say yes they can validate it or say no we ought to make changes.

Sen. TROWBRIDGE: I would just like to add, do you realize that in 1968-1969, a citizens task force had a complete separate section on reforming county government. There was a good deal of testimony and a good deal of writing on the subject. I filed bills on the subject, following up that and we have yet to make any further progress even though I hope your committee will look into the this, but it has all been studied before.

Sen. JACOBSON: Yes senator, that is what happened, for some reason or other, because inertia takes over. But I am an opponent of inertia. That same Peterson Task Force also recommended that supervisory unions be reduced from 43 to 5 and they've gone up to 48 without any significant rationale for it.

Sen. ROCK: Senator I am very intrigued by what you're saying and I think it deserves the study you're talking about. Has anyone done a study on what county government actually costs the State of New Hampshire and its taxpayers today?

Sen. JACOBSON: I don't know what we're paying for county government but I can tell you as a selectman, it is the fastest rising account in the total budget—much faster than school districts are.

Sen. ROCK: Senator, I have heard the figure around of \$55 million bandied about, would that be a figure you would be willing to accept subject to check?

Sen. JACOBSON: I think that that probably lies within the scope of probability.

Sen. ROCK: And if we had that 55 million, instead of wasting it on duplication and overlapping authority, couldn't we then have a balanced budget in the State of New Hampshire without having any new taxes?

Sen. JACOBSON: Well senator, the present county budget is not paid for by the state at all, it is paid for by the cities and towns. The cities and towns do not have a single vote in that budget item. In fact it is taxation without representation in the real sense of the word because we only elect the executive board, we do not elect the county delegates.

Sen. ROCK: And where do the towns and cities get the money they appropriate?

Sen. JACOBSON: Well they get it from you and me and our properties.

Sen. BRADLEY: Senator, I'm interested in, and I guess I agree with most of your comments, and my only question is why are you recommending this to go to committee, why not interim study as you suggested in the past?

Sen. JACOBSON: It goes with the appropriate other bill which is to abolish county government so I think that that is what the executive departments did, they set it up at both ends. Well, I have no objection to doing that either.

Sen. BRADLEY: If we were to pass this, this would not require the legislature to abolish county government, it would only allow them to if they chose to, am I right?

Sen. JACOBSON: The legislative services said that we could not have abolishment of county government until we eliminated these items from the constitution. I don't know the answer to the reverse question.

Sen. LAMONTAGNE: Mr. President, I'm fighting a losing battle but I rise in opposition to CACR 26. I am against it because, Senator Trowbridge has already mentioned to you that we have already had a study, and that's what I am getting at. I wouldn't want to see county government abolished. I for one would not want to see fiscal agents again up in the north country as we have had in the past. At the same time, my good friend the sheriff served me with two writs against the city of Berlin, I still want to defend his office. I feel the sheriff's department is doing a wonderful job up north. I'm not familiar with any other counties but I am speaking only of my own. As far as the county delegation they have

been holding hearings on their budgets and at the same time the people who want to be heard, they can be heard, they have only to go to the public hearings. As you well know, anyone that has anything to do with towns and cities budgets, people are not interested to go to hearings. As far as I'm concerned up north, the county delegation have been doing a wonderful job; our treasurer, county commissions and our sheriff's departments have been doing a wonderful job. Therefore, I rise in opposition to CACR 26.

Sen. JACOBSON: Senator, if it were possible for us by some legislative action to save money for the citizens of Berlin and the surrounding towns so that the tax burden could be ameliorated to some degree, would you be in favor of that.

Sen. LAMONTAGNE: Senator let me answer it this way—my experience as mayor of Berlin—when the county tax comes in I appear and therefore if there is any savings that can be done, if people would only come to hearings, but now another thing too—we have had the problem of fiscal agents and it has been very expensive and I wouldn't want to see a fiscal agent again. You just compared the fiscal agents with the operation of government and especially today it is more expensive than it was in those days, what would be the cost then if we had to go to fiscal agents—not then I mean now.

Sen. JACOBSON: As I understand the matter of fiscal agents that was check on the failure of county government to carry its accounts properly. We wouldn't have any fiscal agents if we didn't have county government. I don't understand your logic on that one.

Sen. LAMONTAGNE: I'm just telling you my experiences in the past—they have been very expensive and don't say that they're there just to look at the county government because they do more than that. If take a look and see what a fiscal agent was doing with health and welfare, and see what has been spent and the politics mixed into it—I say if you abolish county government then I personally feel you are going to get more politics that's going to get in state government.

Sen. JACOBSON: I am intrigued by your statement that the diminishment of one political jurisdiction is going to increase the politics in state government—how will that happen?

Sen. LAMONTAGNE: If you are going to abolish the county government then I'm sure that the counties are going

to have to be run by the state—there certainly will be more politics throughout the whole state. That's what I mean.

Sen. BRADLEY: I intend to vote in favor of this although I am not ready to abolish county government. As I read this thing all this does is give the legislature a free hand as to how it decides to structure county government or whether or not it wants to abolish county government. The existing constitution that we have establishes these offices: sheriff, county treasurer, county attorney. As long as those provisions are on the books, there is no way the legislature can deal in a total way with county government. So I think we ought to pass this thing along and I hope that it gets adopted so that county government is simply a creature of the legislature if it is going to exist.

Adopted.

Recess.

Out of recess.

SUSPENSION OF RULES

Senator Monier moved to suspend the rules of the Senate so far as to allow committee report on **SB 243**, and **366** without proper notice in the journal or a prior public hearing.

Adopted.

SB 366, establishing a 5 member oversight committee to recodify the election laws and making an appropriation therefor. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This sets up a committee of the Secretary of State, the Attorney General and three members of the general public, to recodify the laws after this session is over taking into consideration any laws that are passed in relation to the election laws at the end of this session. There is an appropriation of \$50,000 for this committee, plus any contract that they may have to enter into.

Refer to finance under rule No. 24.

SB 243, relative to payments in lieu of taxes to the town of

Gilford from the Belknap county recreational rea. Refer to interim study to executive departments. Senator Monier for the committee.

Sen. MONIER: This bill is a bill that came in in reference to lieu of taxes for the town of Gilford from the Belknap county recreational area. We heard the bill, the manager of the town of Gilford was there, at the time the committee felt very strongly that there should have been some representation from the Belknap county recreational area. Since then we have asked for additional data and it has kind of been agreed upon among the sponsors and the rest of us that this bill should go to interim study until we can get that material and information directly from the members of the Belknap county recreational area and the selectmen of Gilford and on that basis we would appreciate it if the senate would go along with our recommendation on interim study to EDA.

Sen. GARDNER: Mr. President, this bill was presented by me at the request of the selectmen of the town of Gilford. They sent it by mail very late in the session and at a time when we were having difficulty in getting the bills printed. I tried to find out how it would affect the rest of the county and what they had to justify it for asking what the bill says—it permits the town of Gilford to receive payment in lieu of taxes on Belknap county recreational area in an amount equal to $\frac{2}{3}$'s of its assessed valuation rather than the amount based on 1962 values as at present. This was passed in 1962 and the general court decreed that the Belknap county-owned Gunstock Recreational Area would annually pay to the town of Gilford \$6,587.00 in lieu of taxes, an amount equal to the taxes assessed on the area for the year 1962. Now that is fourteen years ago and the population has grown from 2000 to 5000 and Gilford's annual appropriation has changed \$524,574 to \$3,684,674. I asked them if they could give me figures to substantiate for the services they supplied to the Gunstock area and they had nothing broken down. Now I'll tell you what they based their opinion on; because they hadn't raised the rent in fourteen years and the costs had gone up 500%. Now this is what the town of Gilford furnishes the Gunstock area. All normal police protection service, fire protection service, a favorable aesthetic atmosphere generated by the towns zoning standards and enforcement of them, public works services departments to the roads that carry customers to the recrea-

tion area. They could not tell me what these services cost and I didn't feel that we should try to pass a bill when I could get no justification for it. So I requested the selectman to find out what they would like me to do and they have decided that it would be best to send it to an interim committee and I do too because it is the whole county and I think that the whole county delegation should have a chance to find out.

Sen. SMITH: I rise in support of this motion to send this bill to interim study. I think it is a bill which should be given some consideration but I think what should happen is that the senate committee should request that the Belknap county delegation give full view and hearing to this bill and full consideration because I think that they are the ones most vitally concerned with it. And I hope the senate will go along with the motion to send it to interim study.

Adopted.

SB 15, relative to a mandatory penalty for illegal sales of narcotics by drug pusher. Refer to Judicial Council. Senator Bradley for the committee.

Sen. BRADLEY: We are covering old ground here. This is a bill that was done before, introduced by Senator Sanborn and previously sent to judicial council I believe. Before Senator Sanborn may claim we are attempting to do the same thing with it, I would say that this thing will be going to judicial council if the senate should so vote. Under somewhat different circumstances, and that is that we will be asking the judicial council to study this whole area of sentencing. I touched upon this on some other bills and what we will be asking the judicial council to do is to try to come up with a comprehensive scheme which will give the courts greater guidelines in their sentencing. The trouble I have and the committee has with this kind of bill here is that it is simply too rigid and too extreme. I'm not at all against prescribing to the courts that there be a mandatory sentence of some amount for the typical drug pusher that Senator Sanborn is trying to deal with. I have no sympathy at all and I don't think any of us do with the classical image of the so-called drug pusher. I'm not against trying to move in the direction of insisting on certain kinds of penalties for certain types of crime but I suggest to

you that this is not a well-thought out proposal and that it ought to be a lot more comprehensive and I think the vehicle to do it is through the judicial council at least in the first instance working on that.

Adopted.

SB 10, relative to the filing of a notice of a petition to attach real estate with notice with the register of deeds of the county wherein the real estate is situate. Ought to pass with amendment. Senator Bossie for the committee.

Amendment to **SB 10**

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT
relative to prejudgment attachments.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Burden of Proof. Amend RSA 511-A:3 (supp) as inserted by 1973, 537:1 by striking out said section and inserting in place thereof the following:

511-A:3 Hearing by Court. When a defendant objects to the making of attachments, the court shall set a hearing on such objection within 14 days of the receipt of such objection. Upon hearing, the burden shall be upon the plaintiff to show that there is a reasonable likelihood that the plaintiff will recover judgment including interest and costs on any amount equal to or greater than the amount of the attachment. Upon satisfying said burden, the plaintiff shall be entitled to the attachment unless the defendant establishes to the satisfaction of the court that his assets will be sufficient to satisfy such judgment with interest and costs if the plaintiff recovers same. Such hearings shall not be bound by the rules of evidence. The court may appoint such masters, referee or magistrates as may be necessary to conduct such hearings.

2 Service of Attachment. Amend RSA 511:3 by inserting in line 2 after the word "officer" the following (the plaintiff, his

attorney or any other person) so that said section as amended shall read as follows:

511:3 Service on Register. Real estate may be attached on a writ of mesne process by the officer, the plaintiff, his attorney or any other person leaving an attested copy thereof, and of his return of the attachment thereon, at the office or the dwelling house of the register of deeds of the county in which the real estate is situate.

3 Notice of Attachment. Amend RSA 511-A by inserting after section 5 the following new section:

511-A:5-a Additional Service Not Required. Notwithstanding any other provision of law, no additional service upon the defendant shall be required in order to perfect an attachment provided that a notice of intent has been served upon the defendant as provided in RSA 511-A:2.

4 Writ of Attachment. Amend RSA 509:3 by striking out said section and inserting in place thereof the following:

509:3 Direction. Writs returnable to the supreme or superior court shall be directed to the sheriff of any county or his deputy; provided, however that writs of attachment shall be directed to the sheriff, the plaintiff, his attorney or any other person.

5 Justices Writs. Amend 509:11 as amended by striking out said section and inserting in place thereof the following:

509:11 Justices' Writs. Writs issued by justices of municipal and district courts shall be under seal and directed to the sheriff of any county or his deputy or to any constable of any town in the county, or to either of said officers; provided, however, that writs of attachment shall be directed to the sheriff of any county, or to any such constable, or to the plaintiff, his attorney or any other person.

6 Form of Writ. Amend RSA 509:15 as amended by striking out said section and inserting in place thereof the following:

509:15 Attachment.

THE STATE OF NEW HAMPSHIRE

.....ss. To the sheriff of any county or his deputy, or any other person:

(L.S.) We command you to attach the goods or estate of, of, in said county of, to the value of dollars, and summon him, if to be found in your precinct, to appear at the superior court at, in said county, on the Tues-

day of, to answer to, of, in said county of, in a plea of, to the damage of the plaintiff, as he say, the sum of dollars, and make return of this writ, with your doings therein.

Witness, ..., Esquire, the day of, ...

.....Clerk.

7 Effective Date. This act shall take effect 60 days after its passage.

Sen. BOSSIE: Mr. President, the amendment changes in a small way the determination by hearing by the superior district court prior to an attachment. At the present time it is fairly complicated so basically what it would do is to provide that when a defendant objects to making an attachment, the court will set a hearing and onus is on the plaintiff at that time that there is a reason or likelihood that he or she will recover judgment and upon satisfying that burden the plaintiff would be entitled to the attachment. The defendant at that time establishes at that time to the court that there is enough to satisfy the judgment, attachment would not lie. It also provides that once the attachment is allowed by the court, then the plaintiff or his lawyer could make the attachment by recording it at the Registry of Deeds rather than through a sheriff which is presently required. Sounds like a very reasonable approach to a problem. I think it is a good amendment and a good law.

Amendment adopted. Ordered to third reading.

SB 87, prohibiting adult persons of the same sex from consorting in a lewd or licentious manner in a public place. Ought to pass with amendment. Senator Bradley for the committee.

Sen. BRADLEY: The entire substance of the bill is printed on page 5 and over on the top of page 6 on today's calendar. The original bill and the amendment which was proposed by the sponsor at the hearing prohibited two adults of the same sex from consorting in a lewd and licentious manner in a public place and it also went on to deal with solicitation for sexual purposes. Now the committee had a couple of problems with the original bill as it was proposed. One is the vagueness of these terms lewd and licentious, as to what those

terms mean, it seemed to us too much unknown what that could apply to and also the fact that we seem to be discriminating based on sex and that if something was offensive and should be made criminal shouldn't matter whether it's between two males, two females or between male and female. What we have done is to incorporate a definition of sexual contact which is used in the sexual assault law which defines sexual contact quite explicitly to include the touching of the genitals, touching of buttocks, the touching of breasts on another person non-accidentally. And then to include that in a statute that we already have on the books which is this indecent exposure statute. So what we have done to the present statute is, if you look at page 6, we simply added to 641.1 the words "engages in sexual contact as defined in RSA 632A, that's the sexual assault law in a public place. So I think that we have really covered the kind of conduct which the sponsors and proponents of the bill were reaching and we've also covered it, both homosexual situations and heterosexual situations that are done in public and are offensive and are not to be prohibited by the criminal law. I think the amendment does pretty much what the sponsor wanted and it does it in a way that is clear enough to be workable.

Sen. POULSEN: Senator Bradley, I wonder why you use the word adult in there—I haven't read the bill yet to see if the bill uses adult. We have had all kinds of problems with non-adults in the sex business.

Sen. BRADLEY: Well that's a very good point. The original bill and the amendment, original, offered by the sponsor only dealt with adults. The amendment which we are asking you to vote on does not limit it to adults. It's just like any other criminal law, just like any person, then you get into the question as to whether it should be handled under juvenile law or the adult law. That's handled elsewhere. So that's a very good point you brought up.

Sen. MONIER: In your opening remarks you made a statement that you feel this is what one of the original sponsors had in mind. I'm one of the original sponsors and would you believe that I don't think it covers it at all.

Sen. BRADLEY: I believe you senator if you say it but all I can say is we tried to take what the testimony brought forth to it as being the problem and we tried to come up with a law which is carefully drafted to take care of the problem.

Sen. MONIER: If senator your problem was as you stated

in your comments, with respect to what you called the vagueness of the terms of lewd meaning indecent against the accepted social mores and licentious as means disregarding accepted rules and standards and morally unrestrained as not being a proper way to define it. When you feel that in a public place performs any other act, exposes his genitals, engages in sexual contact as defined and so forth, why couldn't you have substituted that in the bill right the way it was and why would that not have taken care of it?

Sen. BRADLEY: I understand your question. . .

Sen. MONIER: Well I'll explain it again.

Sen. BRADLEY: Well I don't understand I don't think

Sen. MONIER: My question is simple. The bill that you have in front of you had 5 sections. You have struck them all out and made one. In my opinion you left out many of the things for which the two of us were aiming at and that most of the testimony was aiming at. Which quite frankly was that one it was aimed at homosexuals to be very frank with you and I so stated it then as I state it now and the public was also defined in this place to mean to effect persons or places in which the public or substantial group has access including but not limited to schools, government-owned facilities, lobbies or hallways of apartment houses, buildings, restaurants, and recreational facilities. Then the part you mentioned in your commentary lewd and licentious as defined in the original bill, and I read them again, indecent and against accepted social mores, licentious meaning disregarding accepted rules and standards and morally unrestrained. You say that this amendment better defines that in terms so that it cannot be misconstrued of contact, exposure of genitals and engaging in sexual contact and so forth. Why couldn't that have been substituted right in the bill where lewd and licentious is? Or perhaps I ought to ask it then, was your point that that was too much directed at homosexuals.

Sen. BRADLEY: The answer to part of your question is, clearly your bill dealt only with the homosexual situation. This bill covers both, homosexual and heterosexual conduct which is prescribed so that to that extent I think this amendment does what you want it to do plus it does something else. The feeling being on the part of the committee that this kind of activity, whether it is publicly homosexual or heterosexual, is equally wrong. I am not sure that I understand all the rest of

your question, but your definitions of lewd and licentious to me, are so broad and vague as to be unworkable and probably unenforceable. I think using those definitions you're reaching so far that your bill will not work. That's my own feeling. I'm not sure if that answers all your questions.

Sen. MONIER: No it doesn't because you see what the matter is senator you would be correct if you were dealing with both homosexual and heterosexual activity but you wouldn't agree I hope that if you left it where you were dealing with homosexuality of the same sex that then it would not be much easier—I'm trying to say that what you've done is said first it shouldn't be just for homosexuals it ought to be both and then on the basis of that you have stricken out about half of the other part of the bill which we felt as sponsors, applied to homosexuals. Now that is fine if I accept your reasoning in the first place but what my bill really wanted to do was to look after both when the truth of the matter is that my bill did not want to do that. It wanted to deal with the specific social problems that I find very adhorent and as specifically defined what a public place was and it also talked about, that's left out of the bill, disorderly conduct is a misdemeanor if the offense continues after a request by any person to desist. Now if you accept the premise senator that this was a bill to bring about restrictions of homosexuality then the only thing that needed to be changed in it was according to your own indication, was a better definition of lewd and licentious, otherwise you are changing the bill completely.

Sen. BRADLEY: Well it's being changed there's no question it's being changed, but not as completely as you think. I don't believe there is any problem with the definition of the word public in the present statutes. I think that is already sufficiently defined.

Sen. MONIER: I'm sorry I don't mean to interrupt you, but is it defined for homosexuality or is it defined for sexual problems of both?

Sen. BRADLEY: It is defined in the criminal code that whenever you use in public it has a specific meaning. No matter what the crime is you're dealing with and it seems to me that's only appropriate. If you want a bill that only attempts to deal with the homosexual situation, the amendment is not what you want.

Sen. MONIER: I'm sorry but would you repeat that so that we can all hear it—I wanted a bill that does what?

Sen. BRADLEY: A bill that deals only with a homosexual situation. This amendment is not what you want.

Sen. MONIER: Thank you, that's all I wanted.

Sen. BRADLEY: But let me add to that and say your bill will not do, in my opinion, what you want it to do because it will not work, it will not be enforced.

Sen. MONIER: I think Mr. President, not to belabor the point, because we have many bills coming up but I think that Senator Bradley's and my discussion here is clearly laid out as to what the problem is as far as I am concerned. I speak in opposition to the amendment and I speak strongly in opposition to the amendment. The intent of Senator McLaughlin and myself and others that testified at the time about the bill was to make this bill specifically aimed at homosexuals and I think that Senator Bradley is absolutely correct and I commend him for saying so, that the amendment changes that completely. Number 2, I think and I feel I'm correct on this that the public as used in the bill as it was originally laid, is the same as what's in at the present time, with one or two additions which were drafted by legislative services to include certain areas in which homosexuality takes place which might not be the same as what bisexuality would use as an opportunity for such. Third, paragraph 5 of the original bill was specifically laid down against solicitation and recruitment. Now homosexuals must recruit in order to continue with any strength. They obviously can't have children so that quite frankly this is done so that if there is any kind of recruitment and this kind of enticement is laid out to our young people, then it can be stopped, particularly if disorderly conduct is a misdemeanor and the offense continues after the request by any persons to desist. At the present time on the law books the problem with homosexuality is that a person who is involved in it cannot testify against the other partner at all. And that's why there are so few convictions for it. I might add that quite bluntly, myself, and I think I speak for Senator McLaughlin, because he went over the bill carefully with me and appeared for it, is that this is quite frankly aimed at public places and places where the society by allowing homosexuality and not putting a bill in, or a legislative piece of matter, which restricts it as an act is in a sense condoning the both of them. Now I for one don't condone it at all. I think it is an unnatural act, I think it's against God, against the social morals, and against values. I don't know of any religion, of any government, of any place

where it was permitted and where it was permitted that it didn't bring some kind of abusive type of slackening of values and beliefs. This bill was aimed at homosexuality by Senator Bradley's own admission, his amendment changes that completely. I want and hope that the Senate will recognize that and vote the amendment down.

Sen. ROCK: Senator, some people might get the inkling that by voting against this amendment that we were against restricting certain acts between heterosexuals in public. That isn't your intent in voting against the amendment. Your intent as I understand it, is to merely uphold the original concept of the bill as it was introduced without changes.

Sen. MONIER: Absolutely Senator. And further than that Senator, I think there are already things on the books about heterosexual activity, adultery and cohabitation and so forth. But I know of none that are on the books that are there to restrict the growing seed, disaster seed of homosexuality. That's what the bill was aimed at.

Sen. FOLEY: I attended the hearing for this bill and one time during the discussion it was stated that the bill was aimed at some of the dances that were taking place at the University of New Hampshire. I asked about the fact that many of you must know that in all of the senior citizens centers in high rise places for the elderly in the State of New Hampshire, 95% of the inhabitants are women. Women seem to get older and stay alive much longer than men. And every evening these people get in the recreation center which is a public place and the women dance together. I asked if this would mean the same in this bill and they said yes but people would use their common sense as to who would be arrested. It seemed to me that there was a question and a problem with the bill as it was written and this is one reason why I would go along with the amendment.

Sen. MONIER: Senator Foley, there is an organization on The University of New Hampshire campus called GAYS. Would you consider that organization holding a dance should be compared to an elderly center dance open to the elderly?

Sen. FOLEY: I'm not considering them, but both of them are dancing. And who is to know in future years whether one or the other—they are both holding dances and they are both dancing with each other and it would be in the question as to who would say one was lewd and the other one wasn't.

Sen. MONIER: Wouldn't you feel that an organization that has as a stated objective homosexuality, could easily be distinguished from a senior citizen group taking on a Saturday night dance?

Sen. FOLEY: Not according to that law. Not according to the way the bill was written.

Division vote: 12 senators voted yea. 12 senators voted nay.

Amendment failed.

Senator Bradley moved that **SB 87**, be indefinitely postponed.

Senator Monier requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Smith, Bradley, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Jacobson, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown.

11 yeas 13 nays

Motion failed.

Adopted. Ordered to third reading.

SB 200, to create a state district court system for Belknap, Carroll and Grafton counties, with full-time judges, clerks and other personnel as state supported courts and making an appropriation therefor. Ought to pass with amendment. Senator Bradley for the committee.

Amendment to **SB 200**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

to create a state district court system for Belknap and Grafton

counties, with full time judges, clerks and other personnel as state supported courts and making an appropriation therefor.

Amend RSA 502-B:1 as inserted by section 1 of the bill by striking out paragraph II and renumbering paragraph III to read as

II

Amend RSA 502-B:33 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

502-B:33 Municipal and District Courts Abolished. All municipal and district courts existing under RSA 502 and RSA 502-A in Belknap and Grafton Counties are abolished on the effective date of this chapter.

Amend Phases I and II as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

Phase I. Belknap and Grafton Counties, effective July 1, 1979.

Phase II. Merrimack, Strafford and Carroll Counties, effective July 1, 1980.

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Fines and Forfeitures to State Agencies. All provisions of any statute in effect on the effective date of this section whereby a percentage of fines and forfeitures received by the district and municipal courts are directed to state agencies or to the state treasurer are of no further effect, insofar as they apply to courts in Belknap and Grafton Counties.

Amend RSA 502-B:3, I as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. The district court judiciary consists of 5 judges, one of whom shall be appointed at large from any of the counties set forth in RSA 502-B:1, and 4 of whom shall be residents of and appointed to serve from the specific judicial districts and divisions thereof set forth in RSA 502-B:1. Each judicial district or division thereof shall have on district court judge appointed

therefrom. All judges shall be appointed and commissioned by the governor, with the advice and consent of council, as prescribed by the constitution. The judges shall exercise the powers of the court unless otherwise provided. Each judge shall be a learned, able, and discreet person, and shall have been a member of the New Hampshire Bar for a minimum of 5 years at the time of the appointment.

Sen. BRADLEY: Mr. President, the amendment is printed on page six, the amendment is very simple—all it does is strike from the bill the County of Carroll, so that the bill will apply only to Grafton and Belknap counties. This is a bill quite a lot like a bill we have seen in other years. It is not a new idea and not my idea particularly, it has been a bill that has been studied many times and the studies have always come up with the same conclusion, that a district court system should work towards full time district court judges. Now there are real problems and real questions in trying to move in that direction and I think that we have worked out most, if not all, of the problems that have come up over the past years with consolidating these courts. Now this bill will provide for three districts in Grafton, one district in Belknap county. Each to be manned by a full time judge and then there would be one judge at large for a total of five judges. It seems to be enough judges for the geography and the population which has always been one of the questions. Now these judges will continue to sit in the same courtrooms that are now being used by the district and municipal courts so that no town is going to lose access to their own courtroom. That is one of the very important features because the police for example, are reluctant to travel into the central court. They are not going to have to do this under this bill. They'll still be able to go to the same court, in fact, they will be able to have the option with this bill, go into court or central court or stay in the more local court. One of the problems that has come up in the past is getting search warrants, holding arraignments that sort of thing, on short notice at odd hours. It is nice to have the local judge there to do it. And that's been a worry of law enforcement. We have a provision here to take care of that in that we have a system of magistrates that can be set up with as many as needed in any town to handle those kinds of matters. Further, anybody who is not a municipal or district court judge can if they so choose continue to hold certain judicial powers such as granting

search warrants, such as holding arraignments as necessary. I think that this is an idea whose time has come. The two particular counties involved now seem to be, on the whole, ready for it—there may still be some questions on the part of a few, but I have tried to talk with judges, law enforcement and others involved in the two counties and I think that this generally has acceptability in these two counties. My hope is, of course, and the hope of others who have studied this that this pilot program in these two counties will eventually be expanded throughout the state. But this gives us an opportunity to try it in two counties, we seem to be ready for it and to want it and to see how it flies.

Sen. DOWNING: Senator, doesn't this commit us to a program that is going to be phased into the other counties at a later date?

Sen. BRADLEY: Well, that is the hope and desire of the sponsor and there is a provision in the bill declaring a legislative intent and a planning for the future. That, of course, is not binding on anyone beyond the time specified. We do have a phase in plan for this bill but that phase in, of course, is going to be subject to anybody revising it, changing it, repealing it over the years of the phase-in.

Sen. : Senator, would you believe that I haven't had one individual from Rockingham county support this but a number of them oppose it and quite vigorously.

Sen. BRADLEY: I believe it, but I hope you haven't had any from Belknap-Grafton calling you.

Sen. : No I haven't.

Sen. PRESTON: Senator, as you know, I have opposed bills like this in the past for some of the reasons stated—the feelings of Rockingham county judges. Did you indicate that if we voted on this we would be condoning legislative intent to enlarge this throughout the state?

Sen. BRADLEY: I think that what we would be saying is the obvious—that this is to be established, incidentally not until 1979, beginning in Grafton-Belknap counties, to establish there and we move in that direction. Now if the state decides that it wants to change course on this obviously they will be able to do this. In the case of Rockingham county they will have more than two years, I believe more like 3 or 4 years before the issue would really have to be faced—1982.

Sen. PRESTON: Senator, if you were me and you wanted to

represent the judges in your district as to their feelings on this would you vote against this bill as it stands today?

Sen. BRADLEY: I am not sure that I understand that.

Sen. PRESTON: Well, if they are opposed to this and on page 18 there is a declaration of legislative intent, wouldn't that really be a contradiction of those judges that would oppose that in Rockingham county?

Sen. BRADLEY: Yes, but I would point out to you, however, that for what is worth, the Rockingham county bar association were polled on this question and the response was as follows: 52 yes, 6 no and 2 no answer. I consider this to be rather significant.

Sen. PRESTON: Of the 52 yes, how many were judges?

Sen. BRADLEY: It doesn't indicate—it is not broken down—assuming all the judges are members of the Bar Association.

Sen. JACOBSON: I have a question that has intrigued me for many, many years because we have been debating this question, I think, ever since I have been down in the legislature and that is have they made a documented study, that part-time justice does out the worst justice than the full-time judge?

Sen. BRADLEY: I don't know what you would consider to be a documented study but the testimony before our committee was and my own recollection was, that there have been on the order of half a dozen studies on this issue on over almost a twenty year period. They have all come to virtually the same conclusion—that is, that the better justice will be obtained by moving towards a full time judges.

Sen. JACOBSON: That is based on what evidence?

Sen. BRADLEY: I don't think I could summarize the evidence except to say that there have been several studies, several different organizations or groups. A very recent being the very exhaustive study that has recently come out on the standards and goals on the study that Judge Keniston has just reported. This study went out and got input from literally hundreds of the members of the public on this and other issues. And again the result was the right direction to move. That is, to move toward full-time judges.

Sen. JACOBSON: You haven't answered my question about evidence.

Sen. BRADLEY: I guess the other evidence, if you would be interested in it would be a series of studies that would probably stack up like that—I am saying to you I don't know

that I can summarize all the kinds of evidence that have been brought to bear in these studies.

Sen. JACOBSON: We have had a tradition of part-time judges in district courts based upon the locality factor. My evidence showed that, and restricted only to the New London area, that we would rather have a part time judge in New London than have a full-time judge and travel to Franklin.

Sen. BRADLEY: You will still have a judge sitting in your courtroom in New London under the scheme of this bill if it were phased in to include Merrimack County sometime in the future. You will not have to travel greater distances. The same courtroom will remain in effect.

Sen. JACOBSON: So then what is the difference?

Sen. BRADLEY: The difference in the case of New London is instead of a part-time judge sitting in your courtroom there would be a full-time judge who might or might not be a resident of New London.

Sen. JACOBSON: And he would be better by definition?

Sen. BRADLEY: I have no reservations whatsoever in saying, not from any sociological or other kinds of empirical studies that you want to try to look at—if you want to go look at them—but my own feelings about this, my own observations that there is no question on the whole that we are going to have better judges, better systems, better justice with full-time judges. Now that's not to say that you can point to any one judge and say here is a full-time judge that is better than a part-time judge. I am not necessarily talking about any intrinsic qualities of the people involved—part-time vs. full-time but I am talking about also the problems that one encounters in trying to be a part-time judge no matter how good a person he might be.

Sen. JACOBSON: So there is not an intrinsic value in full-time judges as against part-time judges.

Sen. BRADLEY: No, I don't think I said that. I think that there is on the whole, the two people as people, there isn't necessarily anything different in their intrinsic worth. One may be just as intelligent and well-educated and sound of character. What I am saying is that if you take two people of equal talent and character, training, whatever that the person who is put into a full-time system will be able to do his job on the whole, better than the guy who is part-time.

Sen. JACOBSON: Why?

Sen. BRADLEY: There are lots of reasons. I'll give you

some concrete situations that occur. My law partner happens to be a district court judge, part-time. Sits typically one day a week in Hanover District Court. He has before him other members of the bar who come before him to argue a case. He has to try to spend some justice in those cases, in fact and in appearance, it may have been the day before or the day after, he is going to be in superior court squared off against one of those attorneys. This I suggest to you creates problems in fact and much worse problems in appearance. I'll give you another kind of concrete thing that you can observe if you want to go out and travel the courtrooms of this state. and that is that this motion of local court, local justice, part-time justice often carries with it, a very significant influence, almost control by law enforcement. For example you can find in many courtrooms where the judge before he comes out in open court he reviews all the cases for the day with the chief of police. You may think that that is a good way and an impartial way to conduct a judicial system. I suggest to you it is not. I am not saying that there are not many small, part-time judges who are not doing a good job now; I am not saying that every full-time district judge is a saint but on the whole the system is going to be better when you move towards full-time.

Sen. JACOBSON: With respect to your first example, would not a more effective resolution of the conflict of interest within the New Hampshire bar be resolved by having an independent judiciary not tied to the bar by any way, shape or manner?

Sen. BRADLEY: By that you mean a layman.

Sen. JACOBSON: I didn't say that, I said an independent judiciary.

Sen. BRADLEY: I believe very firmly in an independent judiciary and that is part of the reason for this bill so they can be independent.

Sen. JACOBSON: But you just stated that they were tied to the problems of their brothers in the bar.

Sen. BRADLEY: That's true. There's no question you could avoid the conflict of interest problem if you had all lawyers as judges but that is another issue which I suppose we debated in the past and we can debate now but I have even less problem in saying to you I don't believe that we will have a better system of justice if we have all non-lawyers sitting on the court.

Sen. JACOBSON: In answer to your second problem, could that not be resolved in lieu of court?

Sen. BRADLEY: Yes, that specific thing could be—I cite that thing only because of the situation that you see and it can be quite pervasive in certain areas. Another example, and I won't name the town I don't know if the courtroom is still in existence. Not so long ago, perhaps Senator Bossie appeared there, where to get to the court where the judges sit, you have to walk through the police station and in reality the judges bench, where the judge sits, is simply the back part of the police station. Now I suggest to you that you are not going to get either in fact or appearance, impartial justice in that kind of a setting.

Sen. JACOBSON: Has there not been a committee, I think it's called committee on statutory improvements which had made recommendations with respect to the very question that you ask because we made changes in New London to eliminate any such kind of confusion.

Sen. BRADLEY: No question that there is a committee on court accreditation that goes around and observes these kinds of problems. No question there has probably been some improvement in some areas but again the question is, which system, the whole or the main is going to give you a better system. No question in my mind that moving in this direction is the right direction.

Sen. JACOBSON: Final question number 1. I am intrigued by your use of the word layman. I was always under the impression that justice belonged to all people regardless, and that the judicial system belonged to all people—is that correct?

Sen. BRADLEY: That's absolutely correct. And that's why we are here as representatives for all the people trying to decide on what kind of system the public ought to have. It is my firm belief that the proposal that you have before you now is taking a step in that direction—to the ends which you see.

Sen. JACOBSON: Within the concept of the judicial system there are no laymen and non-laymen. Is that right?

Sen. BRADLEY: I use the term as a lawyer perhaps without justification, as to distinguish lawyer from non-lawyer. I don't insist on that terminology.

Sen. JACOBSON: Final question number 3. Will this cost less or more?

Sen. BRADLEY: My belief is that it will come out about the same.

Sen. HEALY: Senator, you had your public hearing last week on this particular bill and you presided as Chairman of the Judicial Committee. Senator, were there not several judges present at that hearing?

Did at least two of the judges reveal the fact that they favor the present setup?

Sen. BRADLEY: Senator, I believe that there were three judges who opposed it. They were three judges from Carroll County. Carroll county was included in the original bill with the understanding from some parties that Carroll county wanted to be included. In the face of the present opposition of the judges at Carroll county we are proposing the particular amendment which is before you, which is to remove Carroll county from the system.

Sen. HEALY: During your hearing how many senators from your committee would you say were present at the time?

Sen. BRADLEY: I don't really recall; it was on a day when lots of senators had conflicts so it may have been one or two, three, as few as that at one time or another?

Sen. HEALY: Did these senators that attended the hearing did they all endorse this, with ought to pass?

Sen. BRADLEY: Well, we had an executive session on it and my files are not complete enough to indicate to me who was there to vote but I don't know of anyone on the committee who was opposing this.

Sen. HEALY: Didn't Judge Walker oppose it?

Sen. BRADLEY: Judge Walker was one of the three I mentioned—all three were from Carroll county.

Sen. HEALY: Assume that this bill should become effective—that would come under the category of district court judges in general. It is a district court judge system. If I recall Judge Snearson of Laconia was a little bit critical of the system, was he not?

Sen. BRADLEY: Judge Snearson of course, who is the only judge present in the district court in Belknap county. He was there to testify in favor of the bill because of the problems which he has seen in his many years on the bench in the existing system.

Sen. HEALY: Didn't Judge Snearson say at one time at that hearing, that the people of Laconia showed dissention to the district court judgeship up there and would like to see the

State of New Hampshire pay the bill and send it to the city of Laconia?

Sen. BRADLEY: That's right. Laconia and the city council has gone on record as favoring this kind of move at the present time.

Sen. HEALY: So they prefer the state to take the responsibility of payment for that particular judgeship in Laconia.

Sen. BRADLEY: Right. It would be more accurate to say that they want the state to take financial responsibility, however the Laconia district court, as most district courts, actually make a so-called profit, that's not really an accurate term, but they bring in more money than the others.

Sen. HEALY: Did not someone bring up the report that the district court system, and they referred to it as the system in that area, was sort of a patch work system and Judge Snearson concurred on that?

Sen. BRADLEY: Again, that was one of the kinds of things that were pointed out as a problem with the existing system. This bill is attempting to at least take a first step towards curing.

Sen. HEALY: If this bill should be passed and we adopted this measure here, would these district court judges come under the pension system of district courts?

Sen. BRADLEY: The full-time judges would come under the same system as the other full-time judges, yes.

Sen. HEALY: I don't like to be critical senator, but these pensions are freebies, are they not?

Sen. HEALY: They are at the present time senator however, I am reasonably confident that once this question as to who is going to be full-time judges and who is not, is shaken down, the question of the type of retirement the judges are going to have is going to be looked at very carefully and competently by the finance committee and a recommendation is going to be made which may well change the nature of the retirement system. This bill, as I explained to you in committee, this bill says nothing one way or the other as to the type of retirement system that the judges ought to have and if you favor a contributory type of retirement system that's fine. This bill isn't in any way thwarting your interests. If you favor a non-contributory one the bill doesn't say anything about that one either. However, you want to go on retirement is really outside of this bill senator.

Sen. HEALY: Senator I am holding here Senator Smith's favorite reading newspaper, sort of a breakfast reading paper of New Hampshire that I am sure Senator Smith enjoys it every day and it has a detailed story, or series of stories by Supreme Court Justice Charles Douglas, whom I personally think is a fine judge. I presume you do too. Senator would you concur with what he had to say for example, he said, from what I read here now, he said that there has been quite a backlog of cases in court. A large part has been caused by uninformed timid legislature and a too aggressive judiciary. Do you have a tendency to agree with that or disapprove?

Sen. BRADLEY: I have not read the article, I have heard it referred to and in the abstract I am not sure I can agree with that—there are probably cases where the judiciary has been too aggressive and the legislature has been too timid but I think the opposite can happen too.

Sen. HEALY: Wouldn't you think it would be more appropriate for the judiciary, the whole judicial system to come in with something appropo for the state senate to look over and decide so we can come up with what you talked about, having a tremendous amount of material and studies made and all that. I have talked with a number of judges and they feel that there is something wrong with the system, including Judge Snearson who made that statement. Don't you think it would be better if we took a little more time and came up with something more practical for all the judges and give the judges a fair salary at the same time put them in a category of a pension system like everyone else.

Sen. BRADLEY: All I can say is that I don't think there has been any issue in the judicial area that has been studied longer and more thoroughly by the judiciary itself and the judicial council than this issue, for like 20 years, and this is the end product of that study. I do not think that this ought to go to study any further. I think it is an idea whose time has come and we ought to try it, this thing doesn't have an effective date until July of 1979. It will be on the books but there will be plenty of time for everybody to try it out and see if there are any problems in it and to come into us if they have any problems.

Sen. BROWN: You gave an example a short while ago with district court judges in relation to law enforcement officers discussing cases. Would you believe that I was invited by some law enforcement officials from the southern part of the

state, and they were disturbed that some judges wouldn't do this, they wanted me to intercede because I knew the judges. No way am I going to tell these judges how to run their courts.

Sen. BRADLEY: I didn't mean to imply that that is a standard practice throughout the state and I believe that probably it is more typical that the judges do not give in to that kind of question. But the fact that anyone called you on that seems to indicate to you that the kind of pressure that the small part-time judges are under, from the law enforcement in their localities.

Sen. BROWN: The judge should be strong enough not to let this pressure bother him.

Sen. BRADLEY: That's true and again I think the guy who doesn't have to worry about this, and the guy who can be independent of it is the guy who is full-time and on salary.

Sen. SMITH: I just rise briefly in favor of this bill. Senator Bradley said, I think, a full-time district court system is long overdue. This is only an experimental structuring for two counties. I happen to be a resident of one of those counties and the thing that bothers me, Mr. President, Senator Preston, more than almost anything, is that since the district court bill went into effect, there have been more and more attempts to break down that district court structure for one town or another, not based particularly on need but rather on politics. I think that this bill would mandate that the permanent court judge would ride circuit within his district so that the people of the state would not be inconvenienced and it would hold together a better structure than what is happening to the existing structure.

Senator Bossie moved the previous question.

Adopted.

Amendment adopted.

(Senator Gardner recorded in favor.) (Senator Preston recorded in opposition)

Senator Healy moved a further amendment to **SB 200**.

Sen. HEALY: I have an amendment to the bill, which reads that no judge may be appointed to a position under this chapter until he has publicly disclosed a statement showing his financial background including ownership of property, bank accounts, stocks, bonds and other types of security and all other assets owned by him or his family.

Sen. BRADLEY: Senator Healy, could you outline other positions in the state, either appointive or elective that must have this criteria?

Sen. HEALY: Senator there may be some but I have no knowledge of them.

Sen. BRADLEY: In other words senator, the only people that you know of in the entire State of New Hampshire from the justice of the supreme court on down to the ward alderman in Manchester, don't have to do this but these people would, is that what you're saying?

Sen. HEALY: Not necessarily, that's not what I am saying. I am saying in this particular case, there is a reason for this. This bill here for example, in the amendment, says here that the judges shall exercise powers of the court unless otherwise provided, that's at the end on page 7. Each judge shall be learned, able and discreet person and shall have been a member of the New Hampshire Bar for a minimum of 5 years at the time of the appointment. Now I would consider that also a suggestion that these men are men of decorum and they want to be public servants. Now if we are going to have public servants that are going to serve us, then we want to know something of their background especially if they are going to have pensions that we have to pay for, our children, our future children. It is going to be a legacy of payments and these children are going to continue to be a sum that will become great in time and I'll point back to Manchester where one time we had a pension system that was not contributory. What happened was that it created such havoc with the tax rate that they had to do something about it and finally, they came to a conclusion whereby they had to effect a contributory system and what I'm trying to bring out is if these gentlemen want to serve this state as judges they should not be worried about their background and if they own property and they are well-to-do, the working man is entitled to know and understand who he has as his judge. I see nothing wrong with it.

Sen. BRADLEY: Does a candidate for the United States senate have to list his bank account senator?

Sen. HEALY: I have seen where they have been requested to list their bank account and in fact it wasn't long ago when I received a letter from Senator McIntyre outlining his whole background of what he owned.

Sen. BRADLEY: My question senator was by statute do they have to list their bank accounts?

Sen. HEALY: There are so many statutes in the United States Congress that I couldn't keep up with that sir, I don't know.

Sen. BRADLEY: Does the governor have to list his bank account, stocks, bonds and securities?

Sen. HEALY: The governor is a candidate for office to be voted upon by the people; he could be in jail and still run as a candidate for governor. Is that correct?

Sen. LAMONTAGNE: I am rising in opposition to this amendment, I don't think it is right for any judge or any man who wants to be a public servant to disclose whether he has property, bank accounts, stocks or bonds, I believe this is a matter that goes into a person's private life and I don't think it is right. I hope you defeat it.

Sen. SMITH: Before we pass amendments and put things like this into law relative to judges or chiropractors or anybody, don't you think it would be appropriate for the legislature to pass a law revealing finances before it mandates others to do so?

Sen. HEALY: The only way I would do that is if you include all senators.

I feel that I am here to represent the people of the State of New Hampshire and the people of my district who are working people. And I also feel and know from talking to judges, lawyers and others that I am right on this. In fact if these people in the senate want to know how this came about it was proposed by a very prominent lawyer—he said it is time the lawyers took into account some of the judicial activities going on throughout the state. And it's time that the people of New Hampshire knew who their judges are and what they have. It is also time to know when a judge is affluent and receiving a huge pension from the State of New Hampshire. In the meantime we have a collection of meals and foods taxes and I would like to know how much in the way, say, meals tax, that the children have to pay for ice cream cones and dunkin donuts and coffee and so forth that it is going to take to pay for all this activity. Now if the judges are going to have free pensions then I think everybody else in the state should have one too. I am even favorable to vote for food stamps for these poor judges if it comes to that. I'll even prepare an amendment for that if they would like.

Senator Rock requested a roll call. Seconded by Senator Lamontagne.

The following senators voted yea: Healy, Downing.

The following senators voted nay: Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Keeney, Hancock, Provost, Brown, Bossie, Fennelly, Preston, Foley.

2 yeas 20 nays

Amendment failed.

Referred to finance under rule No. 24.

Senator Monier moved reconsideration on **SB 277**.

Sen. MONIER: Mr. President, I asked this reconsideration because we are still in a counter date of the 5th and this bill was acted upon that fifth. I would ask the senate the privilege of having it reconsidered. The basic bill itself is not a matter of question with me, it was in our committee, it deals with the industrial development act in allowing Pennichuck water works to become a subscriber to that and any water quality plants that they might build, that they be allowed under that and we supported that in the committee and it came out. The history of that is that it came out in the hectic days when we had many bills. It was passed as such and then was suddenly laid on the table. It was later pulled off the table and an amendment was offered. During that period of time I did not recognize that that amendment directly affected a town that was in my district. I have had innumerable complaints about it since and I would appreciate the senate allowing me to bring it back so that we can discuss the amendment. If the reconsideration is granted by the senate by a vote, then my motion would be that we delete the amendment as it was passed. I would discuss it at that time. For that purpose I request reconsideration of the senate.

Sen. ROCK: Mr. President, I rise against the motion of reconsideration at this time. I would like to outline my reasons for the senate for voting against the reconsideration and allowing the bill as amended to move forward through the legislative process. The matter that we attached as an

amendment, I personally stood on the floor for some 10 or 12 minutes and explained in detail. I told of the extreme needs of the community in which Nashua, the area in which I represent, has as far as water is concerned. For the last 3 summers in my district we have been rationed as far as water usage is concerned. You plant a little garden out back and you find that you can't water it because you don't have enough water in the growing community. There is no place that Nashua is going to get more water but from the Merrimack river. That is the only available source of water remaining for the burgeoning community of Nashua. The Merrimack river is a product of the state of New Hampshire. The water supply belongs to the state and there would be no problem in Nashua taking water out of the Nashua area of the Merrimack river except in Nashua it has the problem of the sewerage that is dumped into it in Merrimack. So this amendment would allow the Pennichuck water works, through the negotiating process, to take water from some point in Merrimack out of the Merrimack river. There is no way that Nashua is going to exhaust the supply of water—we are not going to drain the Merrimack river down; that is an impossibility. The Merrimack water that is taken from Merrimack river at some point would be mixed into the Pennichuck ponds with the present water shed and thence pumped into the community which is desperately in need of public water. We not only face the problem of water for drinking and gardening but we even face the problem of additional necessary water to fight fires in Nashua; we just don't have enough water. I sat in this chamber and I asked one of the representatives from Nashua if they wouldn't just please listen to the case that the people of Nashua are pleading to have additional water, and then once having heard the case—make a decision on it. Maybe I'm wrong, maybe they're wrong, but the real issue is that the story has never been properly told. There was a bill and it is not the same issue, it was HB 742, it was introduced in the house and the house thought well enough not to kill it but to send it to interim study. The problem is in interim study, means five years before we can even begin to tap that source of water and frankly, Mr. President, the community of Nashua cannot wait five years to get additional water; the need is imminent and the need is now. A two year study of this bill plus the three years it would take to implement the building of the supply is not acceptable. However, the house will have another com-

plete shot at it; they will have another opportunity to look at what the real issue is and the bill and the amendment clearly states that nothing contained herein shall be construed to prevent or limit in any way, the development of a regional water supply system which is what some people are saying is the crux of this issue. I really hope that the senate will not vote to reconsider, that we'll let this amended bill go into the house as we did the other day and have the full-blown hearings and the full-blown public meetings that Merrimack agreed upon and then reneged on that promise. I think that this issue is important enough to 68,000 in Nashua and to some people and business in Merrimack that we also supply water to such as but not limited to, a major industrial complex, to let it go forward. If the house feels that it is inappropriate then that is where they'll have their fight. I hope you will vote against reconsideration.

Sen. SMITH: From what he has indicate, his position sounds reasonable. I wonder if you could be more explicit in developing your argument as to why we should reconsider this bill due to the fact that the house will have a hearing on it.

Sen. MONIER: The answer to that is that I wanted to ask some questions of Senator Rock before you asked me a question. If you would yield, some of it might come up. But I'll answer it now cause you seem to be upset by it. The town of Merrimack had already gone on a house bill to the effect that they were against this both the selectmen and the representatives up to a certain point. Senator Rock is absolutely correct when he says that the house bill is not an exact copy of the amendment but the amendment does exactly what the house bill allows it to do which is to put Pennichuck into Merrimack with access by legislative act to the water at the Merrimack river but located in Merrimack. Also therefore, it becomes logical from the next point, they would have to have piping and so forth to put the water into the Pennichuck brook. The answer to that is that they were not consulted with respect to this amendment. They had been consulted with respect to the bill and they had already turned down the bill and that also involved some home rule for which you are famous for support of. Number two it has also come to my attention that the aldermen in Nashua had looked at the house bill which once again which Senator Rock has indicated, is not the amendment—but once again the amendment allows practi-

cally again the same kind of a thing. It at lease makes it a that bill is already in the house and in interim study. I don't know where he got five years before it would come out it also could mean that it was dead and it also could mean that it was going to be studied and brought out in special session. And if that is true then we don't need the amendment we can deal with it in the house bill and amend it. The third thing is I have received on this amendment, all kinds of protests from the three selectmen of Merrimack. Unanimously to the effect that they do not want this senate amendment passed and sent to the house at this time when they have already had the same kind of a battle in concept with the Pennichuck people in Merrimack on the house bill. So to be quite frank with you another question could be asked that evidently this bill which was for the IDA of Pennichuck in which I supported, to allow them to have capitalization funded underneath that, and still do, is very simple. Now it has been put on the table when the efforts and effects of what was happening in the house on that business showed that it was going to interim study, we then arrived with an amendment which is in concept allowing the same thing and tack it onto a senate bill., to tack it on and send it over there. I have no objection but I want the full discourse of that brought out here in the senate before we pass that amendment and I therefore I ask that reconsideration the debate then could be after that.

Sen. ROCK: Senator, understanding that you have had questions and that several selectmen have contacted you on this bill, is it not a fact that having been sent to interim study under one form and assuming that we might not have a special session and further assuming that it takes three years to build a water plant, is it not a fact, that it could be five years and assuming that it was passed that we would have to wait?

Sen. MONIER: It would mean Senator, that the house in its wisdom, had already seen fit to look at this and decide not to because it had not been decided with Merrimack that this was the way to circumvent it.

Sen. ROCK: Are you aware senator that one of the issues that was successful in sending it to interim study was because there was some concern on parts of members of the house that they were in favor of a regional concept and they felt that if the original house bill had passed then that would have been precluded but we have taken care of that by saying nothing

contained herein shall limit the development of a regional concept.

Sen. MONIER: I am aware of the fact that the regional concept was part of the issue when they evolved it in the house. I am still aware that it is still part of the concept that has evolved in this matter. And that it is taken care of in the amendment. But what isn't taken care of in the amendment is Merrimack's consideration and input into this as a member of my district.

Sen. ROCK: Senator, you referred to laying water lines, is that not correct?

Sen. MONIER: I refer to the fact that it would be logical that if you are going to build a water quality plant in some town then obviously in order to have your water pumped therefore from the plant, and as I understand it to then be pumped into the Pennichuck brook. There must be a way from which you would move the water from the plant to the brook.

Sen. ROCK: Assuming that your assumption is right, being a private enterprise, wouldn't the Pennichuck have to negotiate with each and every land owner to secure easement rights to move that pipe across Merrimack?

Sen. MONIER: It possibly could but being a private enterprise I wonder what we are doing with legislative services to help it.

Sen. ROCK: Is it not a fact senator that if anybody taps into the water supply for the State of New Hampshire of which the Merrimack river is an integral part that they have to get legislative approval to do it.

Sen. MONIER: Absolutely true and normally when they do it they also go back to home rule to find out if the town has any objections to it.

Sen. ROCK: You referred to this as going through the legislature do you know any other way for the Pennichuck to get access to the Merrimack at any location but through the legislature?

Sen. MONIER: Persuade those that have already acted upon it; perhaps to take it out of interim study.

Sen. ROCK: Would it still not have to have legislative approval to get it out of interim study?

Sen. MONIER: Absolutely. But it is in interim study in the house not the senate.

Sen. ROCK: I ask you this final question senator, do you

know of any other way that the house could deal with this should they get it but to a) flatly reject it, b) pass it or c) send it again to interim study if that be their wish. Do they not have the same opportunity to send this bill to interim study that they did the original bill?

Sen. MONIER: Senator I thought we were going to deal with the merits of having it out here so that we could discuss it as a matter of recall, but if you want to discuss the merits of the bill I will respond but not with a question but with a statement, I have no way in the world of telling what the house would do. I'm not King George.

Sen. BOSSIE: Senator Rock, a little earlier this year the acting president of the senate had a bill in here which would affect the rights of the Manchester water works, which is a publicly owned, municipal water works in building and owning property in adjoining towns and as you recall, that bill passed overwhelmingly. Meaning that the towns kind of have home rule in determining future destinies of the lands located in their town. Now with that in mind, do you think that we should pass an amendment to a bill that would authorize a privately owned water company to give them certain rights in adjoining towns when the number of towns that would participate in this water district have not voted upon it not participated in the decision-making process.

Sen. ROCK: I find it difficult, Senator Bossie, to relate exactly that bill to this issue and I would be happy to answer any question about the issue before us at this point. I think all of the processes will have to be followed every step along the line or this particular water company tap into the water supply in the Merrimack river, I see no way in which they could circumvent statutes or ownership or easements if this amendment is allowed to move forward the way we voted the other day in the senate. The Pennichuck ponds does own considerable land in Merrimack which I am sure you are aware since you represent them as counsel, so I don't see how you as counsel could advise them in any other way than to follow the statutes when you are working for the town of Merrimack.

Sen. BOSSIE: Let me advise you senator. As you know, we don't represent the town of Merrimack in the legislature. You have implied that I represent them here.

Sen. ROCK: I understand that you are their counsel senator.

Sen. BOSSIE: Do you know that I represent them?

Sen. ROCK: Well . . .

Sen. BOSSIE: Well if I told you I was not and nobody from the town of Merrimack other than their representatives and Senator Monier who called me yesterday would you believe that?

Sen. ROCK: yes.

Sen. BOSSIE: Okay you would believe that. At the time the city of Manchester who owns property, along the Merrimack river in Hooksett, wanted to build this sort of thing at the Pennichuck water district works in Merrimack, wouldn't you think it only decent and just and proper to ask the town of Hooksett whether they wanted it?

Sen. ROCK: Yes I do and I think I could lay a little further groundwork Senator, that I think is part of the problem in this, and I am not excusing it and I am not saying it was exactly the correct process, but as you are well aware the president of the Pennichuck water works recently died very suddenly and a retired president was brought from retirement to fill a temporary gap; a new president who was elected or appointed as general manager, came on board. Because of his experience in engineering and water works in the past he was thought to be a suitable person. He was hired from outside of the state and not aware of the proper way to grease the skids of the legislature if that is what you are referring to. I think that there might have been a mistake in the way it was done but I don't think that that means that the idea or concept is a mistake. I think the process is one of getting legislative approval. How those steps are followed, you may very well be correct, I should have gone to someone in Merrimack that might have uncovered old wounds and old sores about some land use that was recently decided by the courts. Be that as it may that process was perhaps not followed. But that doesn't mean that everybody in Nashua shouldn't go without water because someone didn't understand how to grease the skids.

Sen. BOSSIE: Now have you asked the people you would like to pass this bill for, have you asked any of those ten or eleven towns whether they think this amendment should be adopted.

Sen. ROCK: The people that I asked were people who in my estimation, were reasonable people. Your animosity and opposition to this may be well founded and my support of this may be ill-founded and I am willing to listen to that and hear

the reasoning behind that. Are you willing to do that and the answer was yes, we are willing to sit down and listen. So senator over the weekend somebody devised a meeting where in people would come together and discuss the issue. Yesterday, Monday, the Pennichuck water works was invited to come to a meeting in Merrimack with less than one day's notice. They tried to secure people who would come and be helpful to them. People who might be able to support their claims. When they arrived at the scene for the meeting, at the town hall in Merrimack this morning, they were asked to get out.

Sen. BOSSIE: Are you trying to tell the senate today that one of the towns in which a city would like to build something in their town no matter if it is water or say sewerage treatment plant or say a town dump—what if Nashua wanted to build a dump in Merrimack—

Sen. ROCK: Senator there is no correlation between a water pipe—

Sen. BOSSIE: Where is the home rule concept that we so fervently desire. Shouldn't all these towns have a say in this and why is this such a big rush job.

Sen. ROCK: The home rule concept is one I support but Merrimack river is a product of the State of New Hampshire. It doesn't belong to the town of Merrimack. The problem is that Merrimack dumps its sewerage into it right above Nashua and you can't take all the sewerage out and pump it into the Pennichuck pond so we're going above that and that's the reason for this bill.

Sen. McLEOD: I would like to rise in favor of the present bill the way it is. I realize there are all kinds of problems with it—we wouldn't be trying to disturb Merrimack with this bill whatsoever if we could pump Merrimack river through Nashua. Unfortunately Merrimack has a sewerage treatment plant. There is no intent I don't think on anybody's part to have Pennichuck have the exclusive control on the Merrimack, what we are trying to say here is that Nashua needs more water and we have to get it somewhere. Unfortunately as Senator Rock has said, the people from Pennichuck, being a private enterprise, made many serious mistakes in this bill. They did it to the best of their ability to put together a bill, they probably didn't get the right counseling from some attorneys or something. They asked Mr. O'Keefe from Nashua to put together the bill who is former superintendent of schools

from Nashua, a very fine gentleman. They did not contact any Nashua representatives; they did not contact anybody from Merrimack before they did this—it was a gross error—now all of a sudden overnight this bill comes out and everybody is up in arms on one side or the other. Nobody is blaming Merrimack for being upset that they're trying to do something in their town. It went through a closed hearing over there and then the house defeated it and now we have a problem. All we are trying to say here now is that we have the problem, it is in front of us and we keep the bill the way it is and go back to the house and have cool heads, sit down and find a solution to this problem. All Nashua wants is water, we don't want to interfere with Merrimack and running their city government, we realize that we have to go across from someplace from Merrimack to get water from the Pennichuck ponds. Nashua has grown too fast, we have had a shortage of water this summer and we're going to have more—and I'm not an expert but we have been told by the people of Pennichuck that if we don't do this soon and it takes quite a while to build this plant, in three or four years we are going to be very short of water in Nashua. So if the bill is held two years in study committee, we can't afford to wait that long to satisfy the people of Nashua's desire to have water. So all we are trying to say here is that unfortunately things were done a little bit wrong and we are not trying to stick up for private concern, all we are trying to do is help the city of Nashua which needs water.

Sen. MONIER: Senator I hope that you realize that my reasons for bringing this back for reconsideration deal with the fact that Merrimack is in my district, do you understand that?

Sen. McLAUGHLIN: Yes I do senator.

Sen. MONIER: Then maybe we can maintain some cool heads and I would like to read a portion of a letter written by three selectmen written on April 18th which refers to this bill and it's the kind of thing that obviously did not go to me because the bill at that time was in the house or a similar bill for the concept of it. Not the exact amendment but allowing the same concept for the same procedures.

Several years ago our town participated in a review of a regional water quality management plan prepared by the Regional Planning Commission of Howard, Needles, Damen and Bergdorf. I'm not arguing that there shouldn't be a regional water plan, but I am trying to show some of the reasons why

Merrimack is concerned with this amendment being put on a senate bill which surreptitiously in a way, so that it would get to the house because and after the house has already dealt with the situation under a different bill. And I can understand them being upset by it. The construction of the water filtration on Merrimack is in substantially the location of the site in which Pennichuck wishes to tap the river. Do you know whether the site which we have discussed or the area that we discussed on this amendment is about the same place as which other forms of possible water supplies have been discussed with or not, I don't do you know?

Sen. MCLAUGHLIN: I would like to assume that anyone should be able to tap the same area, not exclusive of Pennichuck, it should be wide open for anybody who wants to tap into it.

Sen. MONIER: Thank you. And then this says this facility should be located on either side of the east or west shore of Nashua and Pennichuck's other franchised areas. The Merrimack is a resource for the entire region and we have come to rely upon a public asset to be developed by some water supply district that is public in nature. That's their opinion not mine. Then the question is, we stand opposed to this bill. These are the three selectmen now, I want you to understand why I am asking for reconsideration to the methods that have been introduced but also conceptually we should not allow a private utility to corner the market. Now in your mind does this amendment allow Pennichuck as a private utility to corner the place where the water can be tapped for just Nashua or for the whole region?

Sen. MCLAUGHLIN: I sure hope it is no intention of Nashua to take an exclusive on any area whatsoever. Our problems seems to be a problem that will be facing us in Nashua in three or four or five years. We have to do something immediately.

Sen. MONIER: I thoroughly agree with you senator but would you not agree though, that if we approve this bill as it now stands that it would give Pennichuck the clout to deal with that particular area and have a foothold as a private enterprise in that particular area and they could later say to Merrimack or to any of the other towns it might wish to tap that particular same sort, why do you object to our plan—the legislature has authorized it—isn't that literally what we are doing?

Sen. McLAUGHLIN: No, that is not our intent whatsoever. If it says so and the wording is that way, let it go in the house and have it say, anyone can go in on a regional basis there is no intent on any of our sponsors to say that they are going to take a certain amount of footage off that river and have exclusive to it for Pennichuck and nobody else, nor do we want that nor do we want Pennichuck to have any clout whatsoever over the whole region.

Sen. MONIER: Would you believe senator that the amendment that is on page 395 of the senate journal states the Pennichuck and it talks about the brook and you can read it for yourself, it says it is hereby authorized in accordance with the provision to supplement its regular supply which is the Pennichuck brook and its contributorys by a strong and convenient point along the Merrimack river upstream from the discharge, etc. etc. the necessary water pumping and associated treatment facilities so as to periodically discharge the Pennichuck brook at a point easterly of Everett Turnpike such quantities of the Merrimack river valley up to a maximum of fifteen million gallons a day as may be needed to maintain a safe and adequate supply in the Pennichuck water work system. Would you not agree that by passing that amendment we are giving Pennichuck first rights to that area?

Sen. McLAUGHLIN: I agree and although I am repeating myself, if it says that and is interpreted that way that is not the intent of the sponsor of this amendment and we will be glad to go to the house and say we don't want them to have exclusive anything. I don't believe a private enterprise should have exclusive right to any of our water systems. They can have use of it to take care of our communities such as Nashua—and we are short in Nashua and I don't care what the name of the company is—we have to get water to that area. We will be glad to make any amendment changes that the house should so desire to accomplish the end mentioned above.

Sen. MONIER: I don't question your motives Senator McLaughlin, but is there not now a bill in the house in committee which is not yet been acted on and is in interim study in which you can do exactly the same thing?

Sen. McLAUGHLIN: You said that and I am not going to disagree with you.

Sen. TROWBRIDGE: Senator, something I have not heard here but is lurking in the background, at least in the back-

ground of my mind, is as we all know the town of Merrimack has been expanding greatly. One of the things that it did as I understand it is enticed a rather large brewery to come to Merrimack which pays a lot of taxes and causes certain problems. Am I incorrect or correct, in thinking that there was a good deal of pressure put on the Pennichuck water system to supply water to that brewery in Merrimack which water would have otherwise gone to Nashua?

Sen. ROCK: Yes senator and I'll tell you how that happened. The Pennichuck water works by petition of somebody and not Pennichuck to my knowledge, was petitioned through the Public Utilities Commission to include southern Merrimack in its distribution area. Now the PUC mandated to the Pennichuck water works that it would include parts of southern Merrimack in its water district. Once a water district becomes part of a franchise as this is, then you have no choice. And for whatever reason the Pennichuck water works, now because the Anheuser-Busch brewery is in their franchise area, has no choice but to supply water to southern Merrimack and residences as well as Anheuser-Busch brewery which uses millions of gallons a year and they can't refuse them. As does Colesman Instrument as does Digital as does all of these companies coming in and Pennichuck has to supply them. And they are in Merrimack.

Sen. TROWBRIDGE: Would it be true that the property tax from those facilities goes to the town of Merrimack?

Sen. ROCK: That's true senator and none of it goes to Nashua or to the Pennichuck water works. And I would just like to further my answer. In a letter from the Water Supply and Pollution Control Commission dated March 15, 1977, a fairly recent document and I am quoting in the letter now from Daniel Holland, the engineer and assistant chief engineer of the water pollution supply and control and he says, "as you realize, when a surface supply utilizes large scale storage the effects of high consumption periods are dampened as storage capacity becomes smaller then more and more reliance must be placed upon water entering the storage from the water shed. It is estimated that the useable storage in Pennichuck is approximately 300,000,000 gallons which represents a three to four week supply. In my opinion 'a very critical situation'. If my estimation of safe yield is accepted the safe yield has been exceeded, the safe yield of the Pennichuck drawing down the ponds has been exceeded every summer for the past seven

years. In either case it shows the existing water supply to be reaching an extremely dangerous situation.” And that’s the problem.

Senator Bergeron moved the previous question.

Adopted.

Division vote: 14 senators voted yea. 9 senators voted nay.

SB 277, amending the state industrial development act and reclassifying a portion of Pennichuck brook.

Senator Monier moved that **SB 277** be placed on second reading and open to further amendment at the present time.

Division vote: 10 senators voted yea. 13 senators voted nay.

Motion failed.

SB 329, establishing a board of judiciary to administer the state’s courts and making an appropriation therefor. Refer to Joint committee—Judicial Council and interim study by Senate Judiciary. Senator Bradley for the committee.

Sen. BRADLEY: This is Senator Jacobson’s bill, part of his reform package to radically change our state. We got this bill quite late and the sponsor suggested to us that the appropriate thing to do would be to have it go to study and we would like to have it referred jointly to the judicial council and our own committee for study.

Adopted.

SB 332, establishing a statewide public defender system and making an appropriation therefor. Refer to Joint Committee Judicial Council and interim study by Senate Judiciary. Senator Bradley for the committee.

Sen. BRADLEY: We have already discussed the public defender system. This is a bill which would extend the public defender system statewide as you know it is now in only three counties of the state. Senator Jacobson who holds the title of being the father of the system, again it came in late and Senator Jacobson felt that the appropriate thing to do is to have it studied by both the judicial council and senate judiciary

Adopted.

SB 341, relative to child advocacy. Refer to interim study by senate judiciary. Senator Foley for the committee.

Sen. FOLEY: This bill is quite a far reaching bill establishing the position of a child advocate to represent interests of a child in divorce and other domestic relation procedures. It is quite far reaching, there were some finances in it, a committee of the superior court system had to appoint an equitable child support formula and there were many other problems of the bill. It didn't come in until the very last day and we felt that the best thing was to refer it to interim study by the judiciary to report back.

Adopted.

SB 342, to require that certain court orders mandating change in ownership of property be recorded. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: This is a bill that I sponsored at the request of the judicial counsel. It deals with the problem of changes in ownership taking place by court order which do not get recorded in the registry of deeds and therefore the local towns do not get the word and they do not know who to properly tax property too. This bill is designed to cure at least part of that problem by requiring that court orders which specify a change in ownership of property, get recorded in the registry of deeds. The bill may not be in perfect form and the committee is a little nervous about the state of it but we felt that this is one of the bills that deserves to go on to the house. We have sent along a letter to the house judiciary committee, pressing our concerns about the bill, we would like to keep it alive and get it over there for them to take a look at it. It's not something that is controversial before the committee.

Senator Bossie moved an amendment to **SB 342**.

Amendment to **SB 342**

Amend RSA 491:24 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

491:24 Property Transfers; Order, Recording. Any court order which requires the transfer of title to real estate, quiets title, settles a boundary line dispute, or otherwise substantially changes ownership to real estate shall require, wherever practicable, that a deed be executed to reflect such change and that the deed, or if no deed, a certified extract of that portion of the court order affecting title, be recorded with the registry of deeds in the county in which said real estate is located. In the absence or incompetence of a party, the court may appoint a guardian ad litem or commissioner to execute a deed in his stead.

Amend RSA 547:3-a as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

547:3-a. Property Transfers; Order, Recording. Any court order which requires the transfer of title to real estate, quiets title, settles a boundary line dispute, or otherwise substantially changes ownership to real estate shall require, wherever practicable, that a deed be executed to reflect such change and that the deed, or if no deed, a certified extract of that portion of the court order affecting title, be recorded with the registry of deeds in the county in which said real estate is located. In the absence or incompetence of a party, the court may appoint a guardian ad litem or commissioner to execute a deed in his stead.

Sen. BOSSIE: The amendment is being passed out and what it does is delete that portion of the bill that refers to personal property. And I do this for several reasons. As we know, several bills have come before us this year, we are concerned with the amount of space that is presently being taken up in the Registry of Deeds. It appears that what this bill will do on the face of it, appears to be good, but it isn't. What it says is that once there is a court order to transfer personal property, you would draw up a bill of sale to record with the Registry of Deeds. Now this would be the first instance in New Hampshire, where a bill of sale for personal property must be recorded in the Registry of Deeds. I just see no logic for that. Now if you are going to have a mobile home, which is personal property, you file it under the title act, why file it under property which is easily disposable, in a Registry of Deeds? Even though, if it is taxable, you should go file your

annual inventory form and in April of each year. Now I don't understand why we have this bill here and I understand that it comes from the judicial council. But if this passes, if you think the Registry of Deeds are screaming now, you can just imagine what they are going to do if this bill passes which would require that any personal property ordered transferred by a court must be recorded. Now what happens as a matter of fact now, in a divorce situation, or a petition or quiet title or any other matter dealing with the ownership of land, the court would make an order and if the parties don't actually agree to dispose of it by deed, either warranty or quitclaim, all you need do is record the order of the court and that is satisfactory. The law is very clear on this. The only thing this does is include personal property and for the life of me I just don't understand this. We are going to have a hundred years, from now, somebody searching a title is going to look over that you have conveyed three cannisters for the kitchen. No logic, personal property is the type of thing that comes and goes. Real property stays forever. So I would ask you to amend this bill and pass it in that manner to the house.

Sen. LAMONTAGNE: Senator what happens in the case of a divorce when one or the other wants the property to be sold, what happens if one of them is incompetent, what happens then?

Sen. BOSSIE: The court would make a determination say in a divorce situation as to whether the property should be sold. They could order the parties to sell it and if the parties refuse to all the court need do is appoint a commissioner, and a commissioner would sell the property. What normally happens in a divorce situation is one party or the other gets certain property and the court says okay, say the husband is awarded the property in Berlin, New Hampshire located on Hampstead Road, what would happen if the wife refused to sign the deed, all you would have to do is record the divorce decree, the decree which is the order of the court. Once that order was recorded that is as good as any deeds. So that is fine I don't mind that procedure with real property, with personal property we don't want to stick this into the Registry of Deeds.

Sen. LAMONTAGNE: What happens in the case where the court has made a decision and issues property half and half and at the same time allows one of them to live in that house?

Sen. BOSSIE: Normally, that court order would be regis-

tered or recorded with the registry of deeds. That would be the court order and that would be recorded.

Sen. POULSEN: Senator Bossie I am all in favor of recording every bit of real estate that can be recorded. Personal property, is that if there is a cloud on personal property is that recorded in the town office now?

Sen. BOSSIE: The transfer of personal property is not recorded anywhere. On personal property, if there is a mortgage, it is called a chattel lien, it would be recorded in the Secretary of State's office and the town or city hall. If you want a transfer and find out if there is a lien on it all you have to do is check the above locations. But if this is done most likely you will have to have a title search done by a lawyer. This is nothing but a waste of money.

Sen. LAMONTAGNE: You mentioned that the bill needed to be worked on, does this amendment adjust the problem that you were speaking about.

Sen. BRADLEY: One of the questions the committee had was whether or not we ought to bother with personal property. Rather than try to work that out the committee—I personally would be inclined to agree with Senator Bossie. There are a couple of questions that I have, kind of in the technical drafting of the bill. I don't mind having this bill, I think it has to go over to the house anyway to get further scrutiny.

Sen. ROCK: Senator, I didn't quite understand what you were saying. Did you say that you would prefer not to change the status quo but if it had to change you would prefer your amended version?

Sen. BOSSIE: Yes sir. Basically what it is, I don't think there is any need for the law. We should require all court orders in real estate to be recorded. It would otherwise be totally unworkable. If we want to contact our town clerks about this or the Registry of Deeds. There would be the biggest howl in the state.

Amendment adopted.

Senator Rock moved that **SB 342** be indefinitely postponed.
Adopted.

SB 346, relative to liens on mobile home park owners. Without recommendation. Senator Keeney for the committee.

Senator Keeney moved that the words "ought to pass with amendment" be substituted for the words "without recommendation."

Adopted.

Amendment to **SB 346**

Amend the bill by striking out section 1 and inserting in place thereof the following:

I Liens on Mobile Home Park Owners. Amend RSA 72:7-a, II (supp) as amended by striking out said paragraph and inserting in place thereof the following:

II. There shall be a lien for uncollected taxes upon any house trailer, or mobile home suitable for use for domestic, commercial or industrial purposes that has been taxed pursuant to paragraphs I and I-a. Said lien shall take precedence over all other liens and encumbrances upon said house trailer, or mobile home, and shall continue in force until one and one-half years from the assessment of the tax. The tax collector shall file with the town or city clerk a copy of a document stating the existence of any such lien, the amount of the uncollected taxes secured by the lien, the name and address of the person liable for the tax as of the date of its assessment, and a description of the house trailer, or mobile home upon which the tax has been assessed. The town or city clerk shall keep a file of such documents, which shall be open to public inspection. Notwithstanding RSA 73:16-a, mobile park owners shall not be held responsible for taxes unpaid under this section on any house trailer or mobile home not owned by said mobile home park owner, provided that the mobile park owner or his agent has notified the tax collector in writing at least 72 hours prior to the mobile home being moved.

Amendment adopted. Ordered to third reading.

SB 348, establishing a special fund derived from bar applicant fees for the use of the supreme court. Ought to pass. Senator Bossie for the committee.

Senator Jacobson moved an amendment to **SB 348**.

Amendment to SB 348

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to qualifications for admission to practice law and establishing a special fund derived from bar applicant fees for the use of the supreme court.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Admission to Examination. Amend RSA 311 by inserting after section 2 the following new section:

311:2-a Examination. Any person who has completed at least 3 years of graduate education, in law or any other subject, beyond the baccalaureate level shall, if he is otherwise qualified, be permitted to take any examination given to determine whether an applicant has suitable qualifications to be admitted to practice as an attorney.

3 Effective Date. This act shall take effect 60 days after its passage.

Division vote: 16 senators voted yea. 6 senators voted nay.

Amendment adopted. Ordered to third reading.

(Senator Bossie recorded in opposition.)

SB 363, revising guardianship procedures. Without recommendation. Senator Bradley for the committee.

Senator Bradley moved that the words "ought to pass" be substituted for the words "without recommendation."

Adopted.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Downing moved that the rules of the Senate be so far suspended as to allow all bills be placed on third reading and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

SB 325, amending the charter of the union school district of Keene to provide that a candidate for school district office shall file his declaration of candidacy no earlier than 45 days and no later than the fifth Monday next preceding the district election.

SB 328, restructuring the office of legislative services and creating an office of revisor of the statutes.

SB 358, relative to the denial of an application for a credit card.

SB 56, establishing an adoptive care act.

SB 357, relative to sovereign immunity of the state.

SB 10, relative to prejudgment attachments.

SB 87, prohibiting adult persons of the same sex from consorting in a lewd or licentious manner in a public place.

SB 346, relative to liens on mobile home park owners.

SB 348, relative to qualifications for admission to practice law and establishing a special fund derived from bar applicant fees for the use of the supreme court.

SB 363, revising guardianship procedures.

SB 277, amending the state industrial development act and reclassifying a portion of Pennichuck brook.

Adopted.

INTRODUCTION OF SENATE BILLS APPROVED BY SENATE RULES COMMITTEE First and Second Reading and Referral

SB 368, abolishing the municipal power department authority in the city of Berlin. (Lamontagne of Dist. 1—To Cities Legislation.)

SUSPENSION OF RULES

Senator Rock moved to suspend the rules of the Senate so far as to allow a hearing on **SB 368** without proper notice in the calendar.

Adopted.

Recess until Wednesday, May 11, at 12:00 noon.

Out of recess.

(Senator Sanborn in the chair.)

COMMITTEE REPORTS

SB 209, relative to the publication of tax sale notices. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: This bill has to do with sending out notices of delinquent taxes and it affects people who have sold their property during the year so that the notice does not get published for nonpayment of a party who is already sold their property. In other words if I sold my house in July and the taxbill came and the new owners disregarded it and didn't pay it and it went to be listed in the papers it would be embarrassing to me and this prevents that situation.

Adopted. Ordered to third reading.

SB 234, allowing a member of the retirement system on insurance disability to continue to pay into the retirement system. Ought to pass with amendment. Senator Trowbridge for the committee.

Amendment to SB 234

Amend RSA 100-A:4, III-a, as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III-a. Notwithstanding the provisions of paragraph III of this section, any school district member who is absent without salary, due to a disability for which he is compensated by a salary continuance plan provided wholly or partially by the school district, shall be allowed continued service credit in the retirement system until such time as he returns to work or retires provided the member continues to pay the regular member contributions required under RSA 100-A:16 and further provided that the member of the school district pays the required employer and state contributions as are in effect

from time to time or that both such parties pay said contributions in any proportion mutually agreed upon. The contributions so paid shall be remitted to the retirement system in accordance with remittance procedures of the board of trustees. In no case, however, shall the service credit, from the date on which the member so absents himself to the date on which he makes one of the above elections, exceed 5 years.

Sen. TROWBRIDGE: This bill came in at the request of the Portsmouth school district. We have amended it so that it is purely optional—no requirements that this happen. Evidently, the Portsmouth school districts have some people who went out on disability, teachers basically, and they want to be able, for the school district, and the member to be able to put in enough money while the person is out on disability so they can get service credits for the time when they're out on service disability. Now we would not buy this for the whole system. It would not make this mandatory at all, because it could really float a lot of stuff. We could see no reason why a given school district wanted to put up its own share, the state's share and the employee put in his share, why they shouldn't have the option to do it. The amendment makes it clearly optional and it is on that basis that we are passing it over to the house. There is no impact on the system from a state point of view but I think that every member of the senate should realize that once you pass this bill your school district may then come up and say, look, we have some people we want to take care of and the cost will all fall on the school districts so you ought to know we are making an exception and a possibility for other costs to land on the community but we are not mandating that it all has to come from the local level.

Amendment adopted. Ordered to third reading.

SB 202, relative to appropriations for the rehabilitation of the memorial bridge in Portsmouth. Ought to pass with amendment. Senator Blaisdell for the committee.

Amendment to **SB 202**

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Effective Date. This act shall take effect June 30, 1977.

Sen. BLAISDELL: This bill was introduced by Senator Foley of District 4. This bill amends the appropriation made by chapter 321 of the laws of 1975 for the rehabilitation of the Memorial bridge in Portsmouth. by making the appropriation non-lapsing and increasing the amount appropriated for fiscal 1977 by \$15,000, you will find the amendment on page 13 on today's calendar and it simply changes the effective date to June 30, 1977.

Amendment adopted. Ordered to third reading.

SB 159, to implement a special state referendum with respect to state revenue sources and government costs and making an appropriation therefor. Ought to pass with amendment. Senator Rock for the committee.

Amendment to **SB 159**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

to implement a special state referendum with respect to state revenue sources and government costs and making an appropriation therefor.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Special Referendum. A special state referendum to determine the sense of the voters, with respect to reducing state government costs or increasing state government revenue sources shall be held no later than May 22, 1977 on a day set by the governor and council after consulting with the secretary of state, provided that such referendum shall be held on a Saturday or a Sunday.

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Questions Submitted. The following questions shall be placed on the ballot as shown:

Vote For Not More Than One

- A. "State government costs should be reduced even if it means cutting state services?" ☐
- B. "State revenues should be increased if necessary, to maintain current levels of state services?" ☐
- C. "State revenues should be increased in order to provide additional state services?" ☐

"If The State Were To Increase Its Revenues Which Methods Do You Favor?"

Vote For Not More Than Five

- 1. Sales Tax ☐
- 2. Casino Gambling ☐
- 3. Income Tax ☐
- 4. Slot Machines ☐
- 5. Increase Business Profits Tax ☐
- 6. Sports Betting Cards ☐
- 7. Increase Meals and Rooms Tax ☐
- 8. Jai Alai ☐
- 9. Increase Beer Tax ☐
- 10. Sale of Wine in Grocery Stores ☐
- 11. Capital Gains Tax ☐
- 12. Sunday Liquor Sales ☐
- 13. Increase Interest and Dividends Tax ☐
- 14. Sale of Surplus State Property ☐
- 15. Real Estate Transfer Tax ☐
- 16. Horse Race Multiple Wagering ☐
- 17. Blue Cross/Blue Shield Premium Tax ☐
- 18. Increase Various Fees and Licenses ☐
- 19. Increase Bank Franchise Tax ☐
- 20. Sale of Cannon Mountain and Sunapee State Park ☐

Sen. ROCK: We've already had the debate pretty generally Mr. President, on senate bill 159. I am sure you will recognize it as the referendum bill calling for the special referendum in the State of New Hampshire relative to revenue raising or budget cutting measures. This bill was sent to senate finance

for several reasons. First, there were some areas that were not delineated as to the amounts of money that could be assumed that we might raise by forms of revenue raising. One of those that had no figure on it originally was slot machines. If you look on page 14 under item 4, the committee did some research and we found what seemed to be a reasonable number of slot machines in the State of New Hampshire should that be a measure that would be adopted, the state would realize \$6 million dollars the communities would realize another \$6 million dollars and the difference would go to the operators for lease and maintenance of the machines. The rest of the figures were filled in using the best methods of estimating how these revenues might come in and we also changed a little bit the way in which people would vote. If you remember before, it was five that you would approve. It's conceivable that if you took certain ones of them, might not come up with the financing that other people would think we needed if we needed additional financing. So instead of selecting five we put a yes, no box. So people might vote no on twenty or eighteen of them, or they might vote yes on eighteen of them. Yes on ten, no on ten, and we would have a better view of how people would vote than if they voted on 5, it might lead to some point where you wouldn't have what you were really looking for in the referendum vote. We also put yes and no on the abc questions at the top and you'll find that on the bottom of page 13. Now you will note that there is an amendment that is coming along, another amendment, as I understand it, you have that passed out on the table, there are four members of the Senate Finance Committee who approve the amendment that you see here and there are another four members of senate finance who have a further clarification that they believe should be added. The report on the amendment that you have before you now consists of the nineteen questions. Question number 20 was the sale of Franconia, Cannon mountain, that was deleted. General consensus being that they did not belong on there and the rest of it—is the way that you sent it to senate finance with the adding on of the figures that were blank plus changing the yes and no boxes; it has an appropriation of \$25,000, the same appropriation that you gave us for the printing of the ballots and I think that that is basically what you have here now and I would be happy to answer any questions.

Sen. BERGERON: Senator, number 16, that conceivably could be a minute off there now couldn't it?

Sen. ROCK: It could be because we have passed that in both houses, as of this time that this was voted we had to pass in both houses. I think the committee felt that even if there was something on here that may have been acted upon in final form by this legislature, if this referendum is to be conducted, it certainly would be helpful to future legislation, to see how the citizens and taxpayers of the state felt about those issues and I think you would have to go back to my discussion of the joint rules, committee of conference and how certain things were and were not to be considered that I talked about the other day. There was the feeling that all of these should stay in because even if they were not approved by this legislature for some future legislature it might be a good guideline as to how the taxpayers felt about it.

Sen. FENNELLY: Senator Rock, on item number 4, I'd like to know on the slot machines whether this magic figure of six million dollars for the state and six million dollars for the communities allowing machines, where does that come out of?

Sen. ROCK: They took a net revenue of approximately \$10,000 a machine, a net gross revenue, which is considerably less than what has been found to be the net gross from machines say in Las Vegas, which is somewhat higher than that. And the reason that we reduced the net growth was because we feel that there might be strong possibilities that if you had slot machines, and remember that we're just sending back, the finance committee, the referendum, slot machines were not on there, if we did have them in New Hampshire they would not operate 24 hours a day as they do in Las Vegas. It is a 60/40 split. 60% is split 50/50 between the towns and the state. So if you had one machine and you got \$1000 for one machine, \$600 would go 60/40, 40% to the operator and he pays his leasing and his maintenance agreement, there is no front money to buy the machines and he takes his cut out of it. 60% goes to the towns and cities and the states split 50/50. This was based on 2000 machines netting gross ten thousand dollars each.

Sen. BERGERON: Senator, you are aware that the national figure on slot machines is over \$17,000 per slot machine.

Sen. ROCK: I wasn't aware of that, we took a lesser figure because we didn't think we would be geared up if we had

them, for the national average, which I guess is Las Vegas? We are conservative if anything.

Sen. PRESTON: Senator Rock, I was there for part of the testimony in Senate Finance and there was considerable talk about the towns and cities not bearing the expense of this special election. Did the Senate Finance turn a deaf ear to that testimony?

Sen. ROCK: No, I mentioned in my remarks, I think you might have been out of the chamber for just a moment, there is an amendment on your desk signed by four of our colleagues from senate finance that will have a further recommendation should this recommendation be adopted it will be moved to make a further amendment that I think Senator Trowbridge would lead that, it was considered.

Sen. MONIER: Senator Rock, two or three questions, one to follow up on what Senator Fennelly stated. You did on the slot machines estimate them as low as possible?

Sen. ROCK: Our figure was very conservative which we did purposely. As a matter of fact, the number of machines may be conservative. If you take into account, if a bill were introduced to allow the machines in service clubs and the like, I think 2000 machines would be very conservative. But I don't know. I think what the committee wanted to do was not to give you, members of the senate and members of the public, inflated figures in any way that somebody could shoot down and say you have overestimated, we will never get that much money.

Sen. MONIER: The response then for those of us who have wanted to be able to figure this in our own mind for any other purposes would be that out of each machine you would have a net of about \$10,000, of which \$6,000 would go to the state and which you have shown here as being split 50/50, so that the towns and communities would have about \$3,000 per machine and the state would have about \$3,000 per machine. So I assume, as part of that question, that you have figured if you have 2000 machines, if you had 5000 machines you would have approximately 30 million dollars rather than 12.

Sen. ROCK: Right. There was considerable question as to whether 5,000 machines was a realistic figure.

Sen. MONIER: Would you believe that there has been considerable doubt that any of the machines would have any figures? But the second question that I would like to ask you about, are you aware as a member of the finance committee,

that we debated the issue with respect as to who should pay for the referendum on this floor?

Sen. ROCK: Yes.

Sen. MONIER: Are you aware that that amendment which had been offered before on the floor had been defeated?

Sen. ROCK: Yes, but believing in the legislative process, Senator, the bill is on second reading and open for amendment, and I don't think we can preclude someone from trying again.

Sen. MONIER: You are aware that no one is trying to preclude it, I am just trying to point it out.

Sen. HEALY: Senator Rock, when you consider casino gambling, 2.5 million in 1979, was that gambling casino bill, or whatever you considered, was that for the state operated or for the free enterprise bill?

Sen. ROCK: Senator, I think that that would probably be a state operated bill.

Sen. HEALY: If it were a state operated bill, I would possibly concur with you. I would say if that is with the independent bill that would be more like 50 million dollars.

Sen. ROCK: I don't know.

Sen. HEALY: On slot machines, number 4, you also say 6 million in 1979 for the state, 6 million for communities and so forth. To me, my thinking is, that it will take perhaps six million out of the Manchester, the number of clubs down there, we have a considerable number of clubs down there in Manchester. I personally think that these facts are well-intended, and perhaps given good consideration and perhaps conservative as you say, but I think they are considerably off for the money that could be raised but also you mentioned the betting cards which is number six—you say 3 million dollars in betting cards. Now these betting cards, wouldn't you say that they sort of conflict with the sweepstakes cards and the sweepstakes sales? You really think they may raise 3 million on the betting cards?

Sen. ROCK: I don't really think that was the issue for the Senate Finance to decide, senator, and I respect what you are trying to say, the bill was sent to Senate Finance for purposes. number one, filling in some blanks, this was done to the best of our ability. As a matter of fact, I don't know if the original bill, if sports card betting had a figure on it at all, we put that on; all of these are suppositions because we don't have them except we can tell what a capital gains tax would do because

we have experience with it; we can tell what Sunday liquor sales will do, we have experience with it. But we have no experience with sports card betting, slot machines and casino gambling. So at best, in anybody's mind, it is a studied guess and we felt more comfortable with a conservative guess than an exorbitant one that if it were approved and come back to this legislature and say, hey, you told us we were going to get \$30 million on slot machines and we only got \$6 million, I don't think that is the position we want to be in. We want to be able to put a figure down here and be reasonably sure that you might get to that figure.

Sen. HEALY: Senator Rock, were you in the senate at the time that the dog kennel clubs were voted in?

Sen. ROCK: I was in the house senator.

Sen. HEALY: Do you recall that what seemed like a sizeable take for the state might have been on that particular bill, wouldn't you say at the time, when they discussed that bill, I forget what the amount of the estimate was, 1.5 million, do you feel that since that dog racing became effective, that far exceeded the estimate at the time?

Sen. ROCK: There is no question of that senator, I would have to agree with you whole-heartedly but if you look at item 4 it says slot machines, \$6 million in 1979. These are the things that would have to happen if you consider any of the present slot machine bills that were being talked about. Number one you have to pass it here and after you pass it here it has to go to a vote to the towns and cities; after the towns and cities vote on it then they have to get in operation. For 1979, \$6 million for the state, \$6 million for the communities on slot machines was a gearing up figure. Now it doesn't say in 1989 you would still be getting \$6 million. That isn't the problem; the problem you wanted answered was what could you look for in the immediate future for revenues and the dogs in the immediate future in the house and senate when we passed it. We felt that was a reasonable figure; we know now that it was much more than that but we don't know what it will be 10 years from now. But don't forget that it was not senate finance's responsibility and this was all debated the other day.

Sen. HEALY: Senator, the use of the year 1979, how come that was brought about, couldn't it be 1978 if a bill should pass this year?

Sen. ROCK: There is no state-wide election this year; the cities are voting. For instance you'll vote in Manchester this

fall but the town of Salem won't vote until their town meeting of 1978 so you wouldn't know until some time in 1978, February or March, whether Salem or Hudson would approve this and I think it would take them longer than just a month or two to get into operation so 1979 seemed like a reasonable year.

Sen. HEALY: One further question, on this slot machine bill, you were considering this slot machine bill as a state operated slot machine bill?

Sen. ROCK: Yes. I don't think Senate Finance could decide how a bill would be that was before them and I've always made it a practice never to second guess or approve or disapprove a bill unless I've seen it. We don't have a bill we are just assuming that some kind of arrangement would be made where they would be licensed and the take would be a 60/40 split.

Sen. FENNELLY: I don't want to disagree with the Senate Finance committee but the figures of \$6 million dollars to the voters of this state will be very misleading. As an example we have approximately 270, 280 social clubs in this state without the 457 restaurants. On the slot machine bill in the house it said establishments holding class A liquor licenses. It is nothing to have 20 slot machines in one social club. Now, if my figures hold true, 258×20 comes to 5000 odd slot machines just in social clubs excluding the 457 restaurants. I realize that not all the restaurants would want the slot machines but when you say \$6 million dollars total to put that down on the referendum, I think you are leaving out about \$8 to \$9 million dollars more of projected revenue. I would like to bring up this point and that's what I figure, Senator Rock gave the lowest possible figure but the average is about \$17,000 per slot machine. Another thing, if the slots did go through is that, Senator Rock pointed out, is that we don't have 24 hours a day for gambling. Well the money not being spent in the casinos will be spent in the slot machines—so you would have to increase your figure there also. My point is that on a referendum like this, \$6 million for the community and \$6 million for the state is a very, very low figure.

Sen. TROWBRIDGE: Senator, do you know that at the present time in Maine they have licensed the gamex machines. Do you know how much money the state of Maine makes off the gamex machines that come in the clubs in Maine?

Sen. FENNELLY: No I don't Senator Trowbridge but the difference of probably the people in Maine. I'll give you an example, the racetrack of Scarborough Downs where they only average \$60,000 a night and Rockingham Park, during the flats, average \$880,000. You have a different type of people—New Hampshire people are geared up to gamble and that's a known fact.

Sen. TROWBRIDGE: We all know at Rockingham, if we were only relying on New Hampshire people, would long since gone out of business Senator Fennelly so let's not talk that way but do you think the people in the clubs of Millinocket are very much different from the clubs in Berlin?

Sen. FENNELLY: No I don't think they are. . .

Sen. TROWBRIDGE: We do you believe that the State of Maine makes out of its clubs \$24,000 a year?

Sen. FENNELLY: Is that the state Senator Trowbridge, I didn't get that.

Sen. TROWBRIDGE: That's the total per year for the whole operation.

Sen. FENNELLY: I don't have any idea how many slot machines that they do have—I'm not geared to debate the question, I'm debating the possible revenue of that particular number 4 on the referendum. I don't think that if you enact slot machines the figure of \$6 million is an okay figure.

Sen. MONIER: I agree with you, would you believe that with respect to the revenue. Would you also agree with me that perhaps instead of arguing about the individual take on a machine that a figure of \$10,000 per machine as a net which then is split 60/40, and I am using that as an alternative to the operator and to the state, with a further split of 60% to the state, half and half, would net the equivalency of \$3,000 per machine for both the state and the town.

Sen. FENNELLY: That's still a low figure.

Sen. MONIER: Would you believe that in figuring these kinds of figures and I think you find this as you look down through although I'm happy you picked the slot machines, you'll find that in every one of them, that is raising money through voluntary contributions such as through gambling vis a vis are mandatory facts, I think that in each of these cases they have been underestimated in terms of that?

Sen. FENNELLY: I can pick out right here, item number 6, sports betting cards—a testimony in the last session by a mathematics corporation, and Senator Bossie wanted a low

figure and he got \$3 million. They projected a low figure of \$4.7 million—it's on the record.

Sen. MONIER: Do you have any recollections of what they have been predicting for example on the bill that has been defeated on jai alai?

Sen. FENNELLY: I think probably one million.

Sen. MONIER: I think that the senate should have some fresh recollections of what was done so that we don't have any question about it. I support the amendment that is currently listed in the calendar. I support it reluctantly because just as I suspected and just as I currently feel and just as I publicly state I think that the revenues possible from those things that are not a sales tax or an income tax or some other form of a tax are minimized. I'm willing to have the referendum even with a minimized form because I think that the public can be informed with respect to what it means per machine for example, or per what the estimates were. It doesn't scare me to have the figures on there. I appreciate what Senator Fennelly states that we are actually showing \$6 million for each—of course I think that the public has to know that that is based on 2,000 machines and is a minimum amount of money. I just use that as an example however the sports card betting—I think what the senate has to recognize is that there is a 16-17 vote to pass this referendum shook some people up—not only in the state but in our legislative bodies. One of the things that I have been arguing about are with the referendum is if the people ever get a chance to express their opinion I think they will do so and I think that that will also cause some shocks. As I have said before in public speeches, that we have been faced since last December with an absolute deliberate attempt on the part of certain groups who are interested in particular kinds of revenue raising, to downgrade any cuts, to downgrade any budgets submitted with cuts, to whack at leisure in a very spectacular fashion, both gambling casinos and tying slots to it so for example there is guilt by association and I'm going to come back to that in just a moment, I think this referendum upsets them and I am happy that it does. I think once and for all, regardless of how we have maneuvered it, what kind of monies we have put on it etc., I want to see out there, I want to see it out there for the reasons Senator Rock said. It is a guideline, it will be there, there is no question there is a budget crunch, I want to see the people speak about that budget crunch and I want to see that and

have an opportunity to make some decision and make some commitments. I really feel that these kinds of revenues—I notice that nobody has questioned what a sales tax will raise, nobody at all has questioned what an income tax will raise—I would hope that on a sales tax, whoever figured the figure, and I am sure that it was done accurately, I am sure that as of yesterday in one of our local newspapers, we have been told that there is now surfacing, an income tax. Surfacing my foot. It has been here since January and before and so has a sales tax. The idea of this referendum as a major sponsor to it along with the other members of it on that referendum I am willing to accept these figures because I think the people can be told exactly what can be done with certain kinds of these revenue raised, so I support the amendment. I support it so we can pass it. I think it has been delayed long enough. It could have been handled in a day or two it was not; that's perfectly within the prerogative of the committee. It is now May 11th, this bill could have been acted upon much quicker than this—I think that is also part of the idea, let's go through the normal legislative process—I'm not even arguing about it. We have done it. It could have been brought out earlier. I wish it had. I think when it gets to the house I think we will have to recommend that we move the date on May 22nd because I don't think the house can even handle. King George won't let it in or find a way to do it—and that's fine with me too—then the onus is on him. I think it is time we get on with this, get it off our backs, get it over to the house and let them wrestle with it and get it out so that the people can have something to say about it. On that basis but with reservations, with respect to the amounts of monies shown here, particularly those that have had such a nice drumbeat since January shouldn't be enacted in our state—I think is not correct and I'm willing to take that chance therefore I don't think there is any reason the other people can't.

Sen. ROCK: I'd like to ask another question, you mentioned again the \$6 million for the state—I hope you understand that we are taking 2,000 machines and we are getting \$6 million for the state, \$6 million for the communities and \$8 million in prizes and so on. We are talking about a lump sum of about \$20 million.

Sen. MONIER: I understand and I think it has been done correctly, I just agree with Senator Fennelly, that once again it is a possibility of a revenue source which wherever possible

is run down or put down under the basic minimum so that it does not show up real competition. Some of us realize that slot machines are a mathematical reality like beano cards, the only difference being you pull a handle instead of sliding a little thing. We also recognize for example, that there is a national average of \$17,000. We have committed it at \$10,000. We also recognize that the state of New Hampshire might put in 1,000 machines and they could put in 10,000 if they wanted.

Sen. ROCK: You mentioned that the bill could have been handled more quickly—you're probably right except at my request we kept the bill until we could get these figures, get the percentages, get them on the record so that you would have responsible and conservative figures so would you accept that I don't believe there was any delaying on the bill?

Sen. MONIER: Senator, I have already said that you have heard no comment from me today. Would you also agree with me that if there had been a concerted effort and a desire to get the bill out it would have been done in a much shorter period of time?

Sen. ROCK: Would you believe that I asked Senator Trowbridge to hold it until I could get those figures?

Sen. MONIER: I certainly will but I have seen bills go into finance and come out as they have in my committee and come out in 48 hours.

Sen. TROWBRIDGE: Senator Monier, I want you to get up and apologize on that one.

Sen. MONIER: Senator Trowbridge I have nothing to apologize for.

Sen. TROWBRIDGE: I did not hold this bill and you can say what you like but I take that as a personal affront.

Sen. MONIER: I did not state Senator Trowbridge that you held up the bill so therefore if you take a personal affront to it that's your inclination. I stated that I have seen bills go into your committee, my committee and other committees and when there was an emergency they would come out in 48 hours. If you would like I am sure that we can find it out in the records.

Sen. TROWBRIDGE: Senator Rock asked me to hold that bill.

Sen. MONIER: I answered Senator Rock.

Sen. BLAISDELL: Senator Trowbridge, did you hear the same thing that I heard that this could be done in one or two days?

Sen. TROWBRIDGE: Yes.

Sen. BLAISDELL: Is it a matter of committee record Senator Trowbridge, that Senator Rock asked you to hold this?

Sen. TROWBRIDGE: Yes it is.

Sen. JACOBSON: First, I would like to speak to a cartoon that appeared in the Concord Monitor on April the 28th in which the senate was being criticized for being mugwomps. The Concord Monitor has an interesting proclivity for as facts. I'll tell you what mugwhomps were. Mugwhomps were those who in 1884 were Republicans who opposed James G. Blaine for the nomination for President of the United States. On the basis of the fact that he had been involved in numerous corrupt bargains with regards to railroad construction and they did not want to have corrupt leadership, these mugwhomps and therefore they walked out of the convention and against the nomination of James G. Blaine. The story is told in what is known as the Mulligan letters. I also want to tell you that some very important people were associated with the Mugwhomps. Theodore Roosevelt was philosophically on their side by opposed their walking out because of course he was interested in becoming President of the United States and he didn't want to have a divided Republican party. One of the finest persons ever to serve in the United States Senate, Carl Schors was a leader in the Mugwhomp group. He was a German immigrant, he rose to become a United States Senator from Missouri, he was also a newspaper editor and a very distinguished citizen and if my vote for this bill is a associated in that tradition I am happy to be in the tradition. It is a tradition against the usual run-of-the-mill so if I am a mugwhomp I am glad to be. Secondly, I would like to stand in support of the amendment and it is all very intriguing as all of you know I have not been shy about saying that I believe that if we are going to have a major new revenue source we ought to have the sales tax instead of a 5% income tax. I know for example that a 5% sales tax will raise \$145 million dollars on these figures based upon the current spending factor and I believe if we are going to go in that direction anor that we have to go in that direction, that is the direction we should go because the sales tax makes the current spending. It will also have a situation in the neighborhood of 20 to 30% of the total monies received. I think that this is a very intriguing worksheet so to speak as to what will raise what. I

support the amendment and I have only one problem—apparently we have not changed the date from May 22nd therefore I presume the house if it passes a bill which will change the date to a more appropriate time.

Sen. HEALY: I rise in support of this amendment but I do question the gambling figures. I think that they were constructed and decided upon by a state operated gambling measure which had been brought up in the house. Now we in the senate have another casino bill with an amendment on slot machines and the prediction far exceeds the amount of money raised. Since there has been a great deal of study put in I am supporting this bill.

Senator Downing moved the previous question.

Adopted.

Amendment adopted.

Senator Trowbridge moved a further amendment.

Sen. TROWBRIDGE: You have in front of you another amendment that was signed by Senator Blaisdell, Saggiotes, Smith and Trowbridge dated May 5. It is the appropriation section that says in addition the state shall reimburse the cities and towns the actual costs of relating and conducting this referendum. Each town shall submit its invoice to the state within 60 days of the election. The Governor is authorized to draw its monies where otherwise appropriate. Since there was some discussion as to whether there was \$200,000 or \$100,000 or whatever, the principle involved here is that reimbursement be made. We will get actual figures from the cities and towns and pay the actual costs. That's what our amendment is. The four of us still could not sit by and not say that if the state wants to have a special election for its own edification that the state ought to pay the full cost of the election and that is I think an issue that has to come up again because we had some of the mayors in from Manchester, Concord, communications from Dover and other cities and towns saying hey, if you are going to do this, you pay for it. So I offer this amendment after the senate finance committee endorsed it—half did and the other half did not. I still think that is the fair way to go about it.

Sen. BLAISDELL: Mr. President, members of the senate, I am on this amendment. I would like to read to you a communication I have had from the city of Keene. Since Keene

was not represented at the hearing: SB 159, in city council April 21, 1977, voted 12 in favor, 1 opposed, 2 absent to go on record as opposed to SB 159. I talked to the city clerk and she told me that the overwhelming response to this bill as to why they were opposed to it because of the money factor, sending it back to the cities and towns and not paying for it. I am personally opposed to the referendum because I think that is what I got elected for and I guess that if I run in the next election I could be unelected. I object to this type of thing being sent to the cities and eleven towns that I represent because I have talked to the representatives of the eleven towns and to the people in Keene and they object to the cost.

Sen. BERGERON: I am curious, Senator, do you have any idea what this referendum may cost the city of Keene?

Sen. BLAISDELL: Senator Trowbridge alluded to the fact that it could cost anywhere from \$216,000 to \$300,000 for the State of New Hampshire. I don't know. I didn't ask, I think it is the principle—I think if it costs one dollar that's too much. Because you or I or anyone else in this room who truthfully haven't got the guts to face the issue—that we have to ask the people.

Sen. BERGERON: I'm sorry, I evidently misunderstood Senator Trowbridge, he gave us the indication that it could be \$300,000 or one or two hundred thousand. Do we have any idea what the total tab state wide is?

Sen. BLAISDELL: It started at \$216,000 but it could be \$300,000. Senator Trowbridge might have a better answer, I'll yield to him.

Sen. TROWBRIDGE: The reason that you can't put an absolute cost on this is because we are starting it on a Sunday—it can't start any earlier than at 1:00 p.m. on a Sunday, the polls must be open for six hours and the city or town can vote to extend the voting hours if they want to. Unlike a normal election where you start at 8:00 and go to normal voting hours, we know what they cost; about \$250,000 state-wide. But there may be other election officials involved—that's why we scaled it down, saying whatever the actual cost is we'll pay. To give you an idea for cities like Keene, Concord, Manchester, the cost is in the neighborhood of \$12,000. to \$16,000. That's what they would normally do to

hire the halls and get the people out and have people set up the voting machines, program them and so forth.

Sen. FOLEY: Senator Trowbridge, have you figured in, will absentee voting be allowed the people—taking in the envelopes the stamps and the town must pay the entire fee under the earlier amendment.

Sen. TROWBRIDGE: Under the earlier amendment the town would pay the full fee.

Sen. JACOBSON: Senator Blaisdell, I wasn't sure who you included in this statement that you made that we do not have the courage to face up to issues—would you delineate those that you included?

Sen. BLAISDELL: I think that I would have to say that it is those who voted for the referendum if you want to put it that way Senator. I think that's really what I got elected for—to represent the people in my area and I did represent my people against this particular amendment because it is going to cost them money.

Sen. JACOBSON: Since I voted for the referendum, could you indicate to me where I have failed to represent the people in my district?

Sen. BLAISDELL: Well Senator, when you accept the office of state senator I think you accept the responsibilities that go with it and I think revenue raising and budget preparing is your responsibility along with mine and I don't think that we should go back and ask the people, my own opinion, that particular question. I think we are here to deal with the budget, prepare the budget and do the things that will take care of the human needs of the people of this state.

Sen. JACOBSON: Are you then saying that the referendum questions the process of referendum is not a good process.

Sen. BLAISDELL: I won't say that is true all the way senator, I just say this particular one.

Sen. JACOBSON: Which legislative question which is properly in the legislature has been asked?

Sen. BLAISDELL: I think the first part of it senator.

Sen. JACOBSON: What would be the form of the bill that question a, what would it look like, the form of the bill?

Sen. BLAISDELL: I don't know . . .

Sen. JACOBSON: Senator you said that we are asking legislative questions and I say would you in summary tell me the form that the bill would take in number a.

Sen. BLAISDELL: I would say the budget.

Sen. JACOBSON: Have I ever avoided the budget.

Sen. BLAISDELL: No you haven't senator.

Sen. TROWBRIDGE: Following up in your line of question to Senator Blaisdell, if you were willing in this referendum to take a position that we need to raise x amount of money, we as senators have said that this is what you need to raise, then ask the question, how do you prefer to raise it. Wouldn't that be more down the pike of responsibility than what you are doing here where you are giving your citizen no guideline as to how much you need. Isn't that where Senator Blaisdell is tagging you on the referendum.

Sen. JACOBSON: I don't believe that I have ever avoided what we have needed to raise in the first instance and in the second instance, Senator Foley answered a question of mine most interestingly when we were talking about the majority that was given to Governor Thomson. She indicated in her answer that the people were mislead and if they had been led down the right path they would not have voted as they did vote. Therefore, this is an opportunity to establish the correct posture that Senator Foley says they have.

Sen. TROWBRIDGE: Have you in this referendum question, ever told your constituency that you do need money, does that come through on this referendum?

Sen. JACOBSON: Yes it does.

Sen. TROWBRIDGE: Where?

Sen. JACOBSON: It gives them three alternatives. Do you want a reduced cost, do you want to maintain at the same level or do you want to increase them.

Sen. TROWBRIDGE: But those three answers are not answers, is it?

Sen. JACOBSON: I would say that that is a classical multiple choice question.

Sen. TROWBRIDGE: It shows no judgment on your part as to which has to be done, does it.

Sen. JACOBSON: I'm on public record, everybody knows what I am.

Sen. TROWBRIDGE: Which one would that be?

Sen. JACOBSON: We have to fund every item of cost that is necessary for the maintenance of public order and welfare.

Sen. TROWBRIDGE: In other words, if you were answering the question, would you go a, b or c.

Sen. JACOBSON: I would go c.

Sen. SMITH: Senator, I think what Senator Trowbridge is

getting to is the question that you would check c, that the state revenue should be increased in order to provide additional services. I think what Senator Trowbridge is asking, is is there anywhere on the ballot any guideline to indicate how much is needed to meet that question so that the person can go on to the second part of the multiple choice university question and give reasonable answers as to what choices he or she might have as to what taxes they would like.

Sen. JACOBSON: Well senator if we were to go in that direction we would then be in fact abrogating what Senator Blaisdell says we are abrogating because then we are getting to the specifics of the legislation. We are asking for generalized types of referendum questions. What you are asking for is specific legislation which the public simply could not handle.

Sen. MONIER: There have been some very interesting philosophical discussions brought up so that before we get any further I would like the record show that I don't believe that we should have any more money because I don't think the government should get any larger and therefore I would answer a. The question of the amendment which is what I think we are dealing with at the present time was a question which we dealt with on the floor before and it was defeated. I am against it for several different reasons. We do not require the towns for example, or do we require the state to pay for town elections, we do not require the state to pay for special elections we call and two years ago we called one here on a senatorial situation in the state which also had a due process system which was in Washington at the time being handled in some fashion, I have heard comments from one senator in a private discussion with me to the effect that he felt if the towns wanted to they could probably come back to the state and ask for reimbursement for that particular election. I don't think so. I would like to remind the members of the senate as I did when we had this debate earlier that if you take this and average it out, it is about sixteen cents in certain towns and I will make the exception for Portsmouth where I said before it was around 49 cents, 50 cents per head and I don't know why but that's what it comes out to. I'll tell you quite frankly that if you look down here at a sales tax which is offered on this amendment of 1%, that 16 cents would probably be paid and the first time you took a dollar bill out of your pocket and put it out for a particular thing. I do not think the people them-

selves will object to the cost of this referendum on the basis of what it is going to cost them individually. I also checked several towns and most of them do not in this budget, have money for a referendum statement, but they do have built into their election monies in most cases by common sense and over the years an extra amount of money for things of this kind. It will cost the towns whatever the referendum will cost. I think the people of this state feel quite strongly that they would be willing to foot those costs for purposes of what this referendum is doing. And that is, once again letting the people speak. I agree with Senator Jacobson—I think that they spoke at the general election and with a 50,000 vote plurality. I am not so sure that in a lot of the actions that have taken place since last December, that that word has been put out as heavily and as well orchestrated as has some of the other words and some of the schemes that I have seen. As far as I am concerned I am willing to stand for reelection on the basis that I ask the towns of my district to pay for this special referendum and so far I have had no repercussions. Now I can generate repercussions very easily—all I have to do is go out and pick up the telephone and call a selectmen or a city mayor and say to him that this is going to cost you money and I just don't think that you ought to go for this or I can call up my constituents and say do you want to have a voice and a say in whether this state is going to continue to expand at a percentage rate in terms of its overall costs of government, and therefore you are going to have to pay for it. Those are two different questions, both of which are legal and which are philosophical and both of which are proper.

Senator Downing moved the previous question.
Adopted.

Senator Fennelly requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Poulsen, Smith, Bradley, Saggiotes, Blaisdell, Trowbridge, Keeney, Hancock, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Lamontagne, Gardner, Bergeron, Jacobson, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Bossie.

12 yeas 12 nays

Amendment failed.

Senator Smith moved that **SB 159** be indefinitely postponed.

Sen. BRADLEY: Mr. President I move this due to the fact that I too like Senator Jacobson would like to be considered a mugwhomp and not go for the usual and the ordinary. We are going for the usual and the ordinary here by putting the cost back to the towns. That's number 1. Number 2, the questions that are being asked are a little bit passe at the moment due to the fact that at least two of the measures have been indefinitely postponed in the house. There is not much sympathy for jai alai, blue cross-blue shield premium taxes. I don't think that there is much point in quoting those questions. And thirdly, I will have to say, and I know that Senator Jacobson took some affront but I do think that the legislature was elected, it has some responsibilities in a general manner to raise revenues and to appropriate money. As I indicated through questioning, I think that the question of the first part of the thing where you asked whether you want to cut expenses or services or do you want to increase services, fine. But then what happens as far as the cost of these is concerned and how does the average person have any comprehension of what these services which he wants to cut or add are going to cost. So then you hit the second part of the question absolutely cold. I just think that it is time after many, many years, most people in this body talk with their constituents, know what their constituents feel and what they believe, they know what is possible and what is impossible and it is time that someone bit the bullet.

Senator Bradley moved a further amendment to **SB 159**.

Sen. BRADLEY: Doesn't the motion I made have precedence of this one?

The CHAIR: You requested an amendment that did not fall into Senate Rule 21.

Sen. BRADLEY: I thought there was a result of the conference was that we would be allowed to make the amend-

ment since it is very clear what it is, subject it being adopted, putting it in typewritten form.

The CHAIR: At the time we made the ruling relative to rule 21 here in the senate, the next piece of thing relative to the chair, was the motion of Senator Smith. Now you can vote down the motion of Senator Smith and proceed with your amendment.

Sen. BRADLEY: May I be heard on his motion?

The CHAIR: You may be heard.

Sen. BRADLEY: I have favored the concept of the bill generally as incorporated into . . . inquiry to the chair—Mr. President may I make a motion at this time of the motion that I made previously, that is to amend this thing by striking out those three questions?

The CHAIR: I assume you will have this in writing?

Sen. BRADLEY: Yes.

Sen. BRADLEY: May I be heard on that?

The CHAIR: You may be heard.

Sen. BRADLEY: I understand . . .

Sen. JACOBSON: May I be recognized for a point of order?

The CHAIR: Certainly.

Sen. JACOBSON: Senator Rock is right that it should be in writing. However, under the circumstances, we have traditionally done in every session that I have been in, we have allowed a person to make an amendment when in fact it is obvious and printed and if the amendment is adopted then he must put it in writing to the clerk. And that is an ad hoc practice that we have been involved in so we do not delay unduly. Now if it were an amendment which we could not have a reference point. That would be a different story.

Sen. BRADLEY: I want to be able to go on record as stating my position on this matter. It seems to me the way to have this issue presented is through this amendment. It makes plenty of sense to me that though the public has got to know by now that we have a fiscal problem and I wish that it was stated in here but it's not, I'll overlook that and say if we have to raise this money what are your preferences. And that is like saying to somebody you owe me some money, how do you want to pay, by cash, by check, credit card or promissory note or whatever. It seems to me to be a perfectly rational process and that is not abrogating our responsibility—it seems to me—to ask the public what method they prefer. Now it is

not binding on us, but I would like to know the answer to that question. I have not, in my own campaign, taken a position on each of these items, 1 through 19. I think my constituents know where I stand on certain of them but not on all of them. I would certainly think that it was helpful and instructive for the senate and to me to know the public's answer but I agree with what has been said—the first three questions are legislative questions. They are questions that we have to answer and there is no way we can pass the buck on that one, to the public, and there is no way in which the public can rationally deal with that problem because they don't have the facts before them. There is no efficient way in which to educate the public as to all those facts.

Division vote: 8 senators voted yea. 13 senators voted nay.
Amendment failed.
Motion of indefinite postponement.

Sen. JACOBSON: I would like to have the opportunity to explain why I am for C. First of all I believe that the state ought to fund an increasing share of the public school funding to remove the inequities of the property tax that falls heavily on people regardless of their income status. Secondly, I believe we ought to have more money available for the state scholarship fund. Thirdly, I believe we ought to have more money available for those people who are much more unfortunate than any member of the senate in terms of problems, whether they be physical or mental handicaps. Fourthly, I believe we ought to have more money for such departments that provide direct services—we have heard all the arguments about motor vehicle registration—and luckily I was born in April so I don't have to get my registration in May. I believe it is clear that we ought to have more money available and I am perfectly willing to put it on the record.

Sen. ROCK: Senator Jacobson, is there anything in this referendum that tells the people of senate district 10, that any of this money will be there to reduce the property taxes as I have purported and said that we were going to do? Anything that says that money will reduce the property tax in the areas I represent?

Sen. JACOBSON: Yes.

Sen. ROCK: Where does it say it.

Sen. JACOBSON: c.

Sen. ROCK: Senator Jacobson you prove that to me because it is not there and you know it senator.

Sen. JACOBSON: I think senator what you are doing is that you have gotten yourself into the same kind of problem as my students get involved in. And that is that you get involved in the figures and you get married to those figures so you cannot extricate yourself to enjoy the theory.

Sen. ROCK: Is there any thing in this referendum that tells Roy Terrell who worked for the State of New Hampshire for 32 years, who was picked up on the street in the city of Keene because he is undernourished, because he is getting a \$129 a month from the pension system that the State of New Hampshire gives him—is there any thing in that referendum that says, Roy, we are going to help you?

Sen. JACOBSON: I don't know Roy Terrell senator.

Sen. ROCK: I wish you did because he is a fine man.

Sen. JACOBSON: I am sure that he is but Roy Terrell probably recognizes his need—and if he recognizes his need, he will vote for c.

Senator Monier requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Poulsen, Smith, Blaisdell, Trowbridge, Hancock, Fennelly, Preston, Foley.

The following senators voted nay: Lamontagne, Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Rock, McLaughlin, Keeney, Healy, Provost, Brown, Bossie, Downing.

8 yeas 15 nays

Motion failed.

Ordered to third reading.

SB 215, establishing a family court for Merrimack and Sullivan counties and making an appropriation therefor. Interim Study by Judiciary.

Senator Bradley for the committee.

Senator Bradley moved that **SB 215** be laid on the table.

Adopted.

SB 225, relative to permanent disability and retirement of probate judges. Ought to pass with amendment. Senator Bradley for the committee.

Senator Bradley moved that **SB 225** be laid on the table.
Adopted.

Senator Rock spoke under rule No. 44.

Sen. ROCK: I rise under rule 44 for a most serious problem that demands immediate attention for both the executive and legislative branches of our state government. A press report from Augusta, Maine tells of gratuities heaped upon appointed members of our sovereign state's public utilities commission. Now there may be nothing wrong with a free lunch but then again there may be. The WHDH television case which was subject to nationwide press coverage finally led to the demise of Channel 5 in Boston, the sale of radio station WHDH and ultimately the fall of the Herald Traveler newspaper and its empire centered around the free lunch issue with members of the Federal Communications Commission. These public utilities commissioners of the State of New Hampshire are in a quasi-judicial position of the greatest trust. Canon 2 of the American Bar Association's judicial conduct provides that a judge should avoid not only impropriety but the appearance of impropriety in all his activities. This senate has approved and sent to senate finance for consideration rules and regulations for our public utilities commission that would prevent this kind of thing from happening. We now find that Ma Bell is treating public utilities commissioners to free lunches and allegedly the wife of a public utilities commissioner. This is shocking news. There can be no question about the interlocking relationships between American Telephone and Telegraph and the New Hampshire division of New England Telephone. And although high priced and influential attorneys for Ma Bell repeatedly object to questions of the free lunch for New Hampshire public utilities commissioners members, we as the senate and as a legislature must insist on more immediate, and definite action. I am not so concerned should there be a dinner for Tom McIntyre and Myrtle, for his vote is only one in the 100-member senate and I am not so concerned about the Belknap-Merrimack county delegation, for again, they are a distinct minority in our 400-member house but I am gravely

concerned that 2 out of 3 of the members of the public utilities commission taking these favors. Mr. President, I do not think that we should make a final judgment on these alleged improprieties without further investigation. To that end I intend to introduce a senate resolution calling on the governor and council to fully investigate this matter and not just a superficial peek into these most serious allegations. As chairman of the legislative consumer's council, I will take steps to obtain the transcripts of the Maine hearings. While the rest of the state was shivering in the bitter winter our public utilities commission members were basking in the South Pacific sunshine at our expense—to feed the ego of Alexander Kolinski and now we hear that Ma Bell was sweetening up the trip with public affair's vouchers. Our citizens need our help and consequently I urge that we give this most serious matter our immediate consideration.

SB 317, relative to elderly tax exemptions for residential real estate. Ought to pass with amendment. Senator Keeney for the committee.

Amendment to **SB 317**

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Holders of Exemptions under Prior Law. No person who was eligible for and who had applied for and had been granted an exemption pursuant to RSA 72:39 prior to the effective date of this act shall be barred from receiving the exemption because of the provisions of this act.

4 Effective Date. This act shall take effect April 1, 1978.

Sen. KEENEY: This would allow anyone who was found eligible who had applied for and had already been granted exemptions under the elderly exemptions to continue to receive this because the bill itself would change the age requirement by lowering it to 65 years and change the residency requirement to 10 years.

Amendment adopted. Ordered to third reading.

SB 324, requiring an annual financial statement from a per-

son, association or corporation conducting horse or dog races and meets. Ought to pass. Senator Downing for the committee.

Sen. DOWNING: This bill was sponsored by Senator Blaisdell—there was no opposition to it and the committee couldn't find any real reason for it frankly, the racing license holders are presently required to report within 60 days after a meet but there was some difficulty as to getting some information that Senator Blaisdell wanted on a recent racing bill and he feels this will cure it—so you have it before you and the committee recommends it ought to pass.

Sen. BOSSIE: Senator if you feel there is no real good reason for the bill is there any reason why we shouldn't send it to interim study?

Sen. DOWNING: The senate can do as it pleases I just explained what the situation was.

Sen. BOSSIE: Senator Blaisdell we are discussing your bill and the question is the committee apparently couldn't find any great reason why the bill should pass because it doesn't seem to to be a problem—could you explain it to us please?

Sen. BLAISDELL: I think this information should be available to the LBA's office and something that should be filed with the State of New Hampshire, I think now that it is only filed with the Racing Commission—I think that we as legislators who have to vote on relief bills and what is going to happen in the tracks of New Hampshire I think that we should have the right to know when one is making a profit so that we can intelligently talk about it. Rockingham Park comes in and says we are making a profit on thoroughbreds and we are not making a profit on this—I think we should have the information available to us and I think the LBA's office or any other office of state government should have that info available to them. The statute doesn't state, I believe, that it has to be filed—it is filed with the Racing Commission—I am saying that it should be mandated to be filed by the legislature to file a profit and loss statement so that we can get the accurate figures on whether or not a track is making money or not and to see the whole financial picture.

Sen. PROVOST: I thought that at every race track there was an accountant or CPA after each race to tell the numbers.

Sen. BLAISDELL: There might be senator but there is no

actual profit and loss statement filed with the State of New Hampshire.

Sen. BROWN: Senator what you are looking for here is an audit—similar to what the LBA does in auditing state departments and so forth, where we get revenue from this.

Sen. BLAISDELL: Absolutely Senator Brown and this is not available to us now.

Adopted. Ordered to third reading.

SB 350, authorizing games of chance at agricultural fairs and nonprofit fundraising activities. Ought to pass with amendment. Senator Downing for the committee.

Amendment to **SB 350**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

authorizing games of chance at agricultural fairs and nonprofit fundraising activities and permitting local officials to receive reports of beano games.

Amend RSA 287-D:2, III as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III. Application for a license to operate any game of chance shall be issued by the sheriff's office of the county where the games of chance may be operated. The sheriff may issue only one license to each applicant per year to operate games of chance for a period not to exceed 8 days.

Amend RSA 287-D:2, as inserted by section 1 of the bill by striking out paragraph VII and renumbering paragraphs VIII and IX of same to read as VII and VIII respectively.

Amend RSA 287-D:3 as inserted by section 1 of the bill by striking out paragraph VI of same.

Amend RSA 287-D:5 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

287-D:5 Fees and Reports.

I. In towns with a population less than 10,000, an applicant for a license under this chapter shall apply to the sheriff's office, and upon payment of a fee of \$25 and if the applicant meets all other requirements of this chapter, a license shall be issued. The fee shall be paid over by the sheriff to the county treasurer for the use of the county.

II. In cities and in towns with a population of 10,000 or more, an applicant for a license under this chapter shall apply to the chief of police of the city or town, and upon payment of a fee of \$25 and if the applicant meets all other requirements of this chapter, a license shall be issued. The fee shall be paid to the city or town treasurer for the use of the city or town.

III. The sheriff or chief of police issuing a license under paragraph I or II may request the applicant to submit an accounting in such form as he shall determine of all receipts and expenditures of the applicant in connection with any game of chance conducted under this chapter. Any such request shall be clearly stated on the license when issued. Any nonprofit organization or any officer or employee of such organization shall be guilty of a violation for failing to submit any report requested pursuant to this section.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Accounting for Beano Game Licensees. Amend RSA 287 by inserting after section 3 the following new section:

287:3-a Report of Licensee. The selectmen or chief of police issuing a license under this chapter may request the applicant to submit an accounting in such form as he shall determine of all receipts and expenditures of the applicant in connection with any games conducted under this chapter. Any such request shall be clearly stated on the license when issued. Any person who fails to submit a report requested under this section shall be subject to the penalty specified in RSA 287:10.

3 Effective Date. This act shall take effect upon its passage.

Sen. DOWNING: This bill legalizes games that are being done all over the state and it requires a license for them. It establishes a licensing agent for the sheriff of that particular county. The amendment would make it, in towns of 10,000 or

larger, the local police chief. It also allows for the licensing authority to require an accounting of the monies handled which is something different; it also goes into the present beano laws and it allows the licensing authority to require an accounting of the monies handled there as well. It is not mandatory—they may if they feel they ought to. The original bill allowed the license for a 7 day period and there was testimony before the committee that indicated it should be 8 days and there will be another amendment offered from the floor by Senator Bergeron to make it 10 days to take in the full schedule of Rochester Fair. That amendment will be offered after this amendment if you adopt it.

Sen. BERGERON: I just rise in support of this amendment and bill as reported by Senator Downing. This was one of the hot issues all last summer while the fairs were going on. I am particularly pleased that this distinguishes between lions type gambling and somebody who has a fake wheel—I think it is a very good bill.

Amendment adopted.

Senator Bergeron moved a further amendment to **SB 350**.

Amendment to **SB 350**

Amend RSA 287-D:2, III as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III. Application for a license to operate any game of chance shall be issued by the sheriff's office of the county where the games of chance may be operated. The sheriff may issue only one license to each applicant per year to operate games of chance for a period not to exceed 10 days.

Sen. BERGERON: The amendment was handed to the clerk and passed out yesterday and the only thing that the amendment does is changes the number of days from 8 to 10. The reason for this is simply that when the committee met I was not able to be there but Rochester Fair runs for 10 days and they were under the impression that it runs 8 therefore the necessity for the amendment.

Amendment adopted. Ordered to third reading.

SB 137, establishing casino gambling in New Hampshire and providing an appropriation therefor. Interim study as amended by Ways and Means. Senator Downing for the committee.

Amendment to SB 137

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

establishing casino and slot machine gambling in New Hampshire and providing an appropriation therefor.

Amend the chapter title of RSA 287-D as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

Casino and Slot Machine Gambling

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Slot Machine Gambling. Amend RSA 287-D by inserting after section 32 the following new subdivision:

Slot Machine Gambling

287-D:33 In this subdivision:

I. "Approved facility" means:

(a) any establishment operated by a nonprofit group or organization; and

(b) any establishment operated by a club incorporated under the laws of this state which is affiliated with any national fraternal organization.

II. "Registrant" means the holder of a certificate of registration to operate slot machines in an approved facility.

287-D:34 Qualification for Certificate.

I. The officers of any nonprofit group or organization or any club incorporated in this state and affiliated with a national fraternal organization may apply to the casino control commission for a certificate to conduct slot machine gambling.

II. An application for a certificate of registration shall be in such form as may be prescribed by the commission.

III. If the commission determines the applicant for a certificate is a suitable group, club or organization it may issue a certificate of registration to operate slot machines in an approved facility.

IV. The commission is empowered to conduct investigations and inspections of a registrant within the guidelines established by this chapter.

287-D:35 Revocation or Suspension of Certificate. The commission may suspend or revoke any certificate in the event the registrant violates any rule of the commission or acts contrary to or in violation of any condition or limits under which the certificate was issued.

287-D:36 Distributor of Gambling Games. Each person, firm, corporation, association or organization which sells, leases, markets or otherwise distributes gambling games shall annually apply for a license to act as a distributor in this state upon a form prescribed by the commission and shall provide such necessary and reasonable information as the commission may require. The annual fee for any such distributor shall be \$500. No distributor shall sell, lease, market or otherwise distribute any gambling game within this state except as approved by the commission.

287-D:37 Slot Machine Operation. Any and all slot machines permitted under this subdivision shall be subject to the following:

I. No person in direct charge or supervision of such slot machine will knowingly permit any person under 18 years of age to engage in the play of such slot machine.

II. Each slot machine permitted under this subdivision shall be operated and maintained at all times in an orderly manner and shall make an ultimate payback to the players of not less than 80 percent of the coins played through it. If any slot machine be plugged or its pay ratio changed from the amount so specified as the result of any act of the registrant, the certificate of registration shall be forthwith suspended, and no new certificate shall be issued for any slot machine at such location for one year thereafter.

287-D:38 Permit Fees. There is hereby imposed on every registrant an annual certificate fee of \$100 for each slot machine to be installed in the registrant's approved facility.

287-D:39 Slot Machine Income. The commission shall dis-

tribute the gross operating income from each slot machine which is defined as the aggregate amount paid into each slot machine by all players of that slot machine during each week, less only the total amount of payouts made from the same slot machine to such players as follows:

I. Forty percent shall be retained by the registrant.

II. Sixty percent shall be forwarded by the registrant to the commission who in turn shall transfer same to the state treasurer for deposit in the general fund of the state.

287-D:40 Local Option Required.

I. Each city and town may adopt the provisions of RSA 287-D to permit the operation of slot machines.

II. A town desiring to adopt the provisions of RSA 287-D to permit the operation of slot machines within the town may have the question placed on the warrant for a town meeting at which town officers are elected in the manner provided in RSA 39:3. Such question shall be presented for voter approval in the following manner:

(a) for a town which has an official ballot for the election of town officers, the officer who prepares the ballot shall place the question on such official ballot as it appears in subparagraph (c).

(b) for a town which does not have an official ballot for the election of town officers, the clerk shall prepare a ballot in the form as provided in subparagraph (c).

(c) the wording on the ballot of any referendum for the adoption of the use of slot machines shall be as follows: "Shall we adopt the provisions of RSA 287-D to permit the operation of slot machines in our municipality?"

(d) upon the ballot containing the question shall be printed the word "Yes" with a square near it at the right hand of the question; and immediately below the word "Yes" shall be printed the word "No" with a square near it at the right hand of the question. The voter desiring to vote upon the question shall make a cross in the square of his choice. If no cross is made in a square beside the question, the ballot shall not be counted on the question.

III. A city desiring to adopt the provisions of RSA 287-D to permit the operation of slot machines within the city may have the question placed on the official ballot for any regular municipal election for the election of city officers upon a vote of the city council or upon submission of a petition signed by 5 percent of the registered voters of the city to the city council.

The vote of the city council and the petition of the voters shall include the amount of the exemption or the manner of its determination. The question shall be placed on the official ballot by the city clerk with the wording and in the form provided for in paragraph II, (c).

IV. Upon approval of the question by a majority of those voting on the question, the provisions of RSA 287-D to permit the operation of slot machines shall be deemed to have been adopted.

V. If after adoption of the provisions of RSA 287-D, any town or city desires to rescind its adoption, it may do so by referendum pursuant to paragraphs I or II, by changing in paragraph I, (c) the word "adopt" to read "rescind" in the question on the referendum.

6 Exemption from Federal Law. Pursuant to section 2 of that certain act of the congress of the United States entitled "An Act to Prohibit Transportation of Gambling Devices in Interstate and Foreign Commerce," approved January 2, 1951, being c. 1194, 64 stat. 1134, as amended by Gambling Devices Act of 1962, 76 stat. 1075, and also designated as 15 U.S.C. sections 1171-1178, the state of New Hampshire acting by and through its duly elected and qualified members of its senate and house of representatives in general court convened, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of the above referenced law of the United States, declare, and proclaim that it is exempt from the provisions of section 2 of such law of the United States.

7 Effective Date.

I. RSA 287-D:3, RSA 287-D:4, RSA 287-D:5, RSA 287-D:10, RSA-D:11, RSA 287-D:12 and RSA 287-D:14 as inserted by section 2 of the act shall take effect July 1, 1977.

II. Section 3 of this act shall take effect July 1, 1977.

III. The remainder of this act shall take effect January 1, 1978.

Sen. DOWNING: This bill came out relatively early in the session. The sponsor felt that he wanted to do some other things, the sponsor is Senator Healy from Manchester, and we got the amendment in the late days and really didn't have the time to do the job on the subject matter that we would like to have however, we feel that this has got some interest in the state and it may be something we want to consider at a future

date so the legislature should be as familiar with the subject matter as it can be therefore we recommend that it be referred to interim study with the amendment and as I say the amendment is on page 19. I don't think this is a matter of being in favor of gambling of this type or not it is a matter of being informed on it and hopefully the senate will support that. I might say that even if the committee at this point did feel that they knew enough about the subject matter that they could make a recommendation and if the recommendation were to be positive the matter wouldn't be allowed into the house anyway—I consulted with the speaker and his legal counsel and he feels that the subjects were indefinitely postponed over there and doesn't feel that this bill would be entered in over there at all. I think it is important that it stays in the possession of the senate—it is obvious that it is going to be a matter of discussion for years to come and we should at least be informed about it.

Sen. BRADLEY: Senator if the senate were to vote to send it to interim study is there any way you see to avoid the implication that the senate is interested in casino and slot machine gambling?

Sen. DOWNING: I don't think it means that the senate generally or specifically is interested in this particular concern. You have a standing committee that is concerned with raising revenue and that is its concern. There has been an interest indicated, not a very large interest, but there has been an interest indicated in this particular means of raising revenue. The Ways and Means Committee is saying let us look into it and be as well informed on the subject matter as we can be.

Sen. BRADLEY: Senator wouldn't it be possible for our Ways and Means Committee to study the general subject matter of casino gambling and slot machine gambling without voting to send this particular bill to interim study and therefore without raising a complication that we might be interested in adopting this kind of legislation?

Sen. DOWNING: It would be senator but we have a piece of legislation here that a member of our body sponsored and is concerned with and feels that that is the way to do it. I think it is consideration for that member and that member's efforts as well as the need for the committee itself to be informed which will encourage the senate to support the report.

Sen. ROCK: I am very familiar with the work that Senator Downing is able to do in interim study, we saw his electrical

energy review report which was not only extensive but meaningful and well-defined. I am going to support the motion to send this to interim study because I feel that that same kind of attention will be afforded SB 137. I would have only one comment other than that and that is Senator Downing's remarks as to whether or not this would be allowed into the house being a subject that had been indefinitely postponed by the house. I am sure the senator was there and perhaps his comments were from further study but at the meeting of the committee of conference there was at least a concession that if this bill were considerably different from the bill that was indefinitely postponed by the house there was some thought that the speaker might be willing to take a look at it so perhaps there was further research done and a copy of the bill shown. If that was rejected in hand then perhaps I misunderstood what was said at the committee of conference. I have no quarrel with sending it to interim study and I know that Senator Downing will give it a meaningful study.

Sen. DOWNING: Senator I just want you to understand that I took this instrument to the speaker personally and he referred it to his legal council; they spent some time with it and came back and gave me the opinion they would not allow it in.

Sen. MONIER: Senator Downing, this is disturbing me to because if you remember about 3 days ago I stood here and I was one of two people who voted against the acceptance of those joint rules and my argument was at that time that what we were doing was allowing George Roberts to determine these when we as a senate body had already accepted that amendment if that was what we wanted. Now do you feel in this particular case, since you were also a party to as a member of the joint rules only, that you were a member of the rules that agreed to these? In this particular case this bill is similar to the same bill to be indefinitely postponed?

Sen. DOWNING: Senator I think that is an interpretation that the presiding officer has to make and while I would have the occasion particularly if I were the sponsor of a bill to disagree and probably even go to the extreme of overriding the presiding officer, I don't want to be so presumptuous as to challenge the ruling of the presiding officer in a situation such as this. I can only state the facts to the senate and tell the senate rather than sending it over where it is not going to be received anyway. I think the senate ought to find out a little

bit more about it, certainly the Ways and Means Committee ought to find out about it.

Sen. MONIER: I hope you understand senator that I am not rising in opposition to it being sent to interim study so that is not the issue, I am questioning him because I said on the floor here, and I was a lone voice to the effect that what we were going to be doing, was to be allowing these kinds of decisions to be made, which incidentally was the basic argument we made when we passed the amendment to the rule which was not accepted. Now would you not feel in a way that they are carrying out what I said?

Sen. DOWNING: To some extent senator. I would point out that there have only been two bills that the rules committee was informed of anyway that have been indefinitely postponed in the house this session and that has been on casinos and slot machines. The feeling is very strong there—they just don't want any consideration whatsoever on the subjects. The majority leader in his own testimony has repeatedly taken the floor to avoid an indefinite postponement of any other subject matter. So I think the extreme position that the house has taken, the extreme attitude on these two subject areas dictate considerably the rigidity of the opinion of the speaker and his counsel.

Sen. MONIER: That was the argument I was making the other day on the floor about the rules. It seems to me then that I am somewhat then supported by it—in a sense that the senate wished at the present time regardless whether we agreed with it or not, wished at the present time to discuss those two revenue bills in any way whatsoever. We could do it but it would be a frustration because at the present time the speaker of the house would refuse to accept it.

Sen. DOWNING: You are correct to the extent of the knowledge and understanding that we have of the two subjects today. Probably if the senate had time to look into the matter in depth that it should before it would make a recommendation on such an important subject. We convinced the senate and then assuming the recommendation was positive, that we could probably convince the senate and I'm 100% behind them, that being the case, then we would have a strong argument within the rules committee and would have a strong argument to present to the house. I don't think that is the case—I don't think the Ways and Means Committee is

prepared to give you that type of recommendation or that type of beginning so to speak.

Sen. HEALY: This senate bill originally was prepared and submitted and later on an amendment was placed on it to capitalize pretty much on the slot machines. When the bill first appeared there was a whole box loaded with the bill and they have all disappeared. So there was considerable interest in the bill. What I want to point out is this, that this bill in no way compares with the other bills that were state-operated. State-operated bills would cost a tremendous amount of money to implement in New Hampshire. This bill would bring in a bonanza of money into the state. Either one, the amendment or the casino bill itself. Quite a few people have a poor connotation on the thought of casino. You mention the word casino and the first thing they think of is Las Vegas. In this particular bill it has very different thoughts on how it should be operated on. This bill is operated independently as a free enterprise bill as I mentioned before when I asked Senator Rock a question in reference to what was on the referendum on the amount of money to be raised. I say that this could raise a tremendous amount of money if casino was adopted and I seem to think that there is quite a bit of dissention right now against such a bill so therefore I added the amendment on slot machines. In Manchester I have had a great deal of interest and a great demand to have slot machine bill introduced because these non-profit organizations were running into trouble. There are at least two clubs in Manchester that could fold up anytime and one is a very prominent organization. They have already sent out letters to their members asking for help and assistance to survive and they also have hopes that a slot machine bill could be introduced to help them along. Any help for these organizations would be something—it would also be something for them and would be a great return for the State of New Hampshire. Now I doubt very much that such a bill introduced today, right now would be passed. I concur with Senator Downing that having this bill sent to interim study to be retained there and held for further consideration. When it comes time there is no question in my mind that we are going to have quite a problem with a budget and we are going to need quite an appropriation of money to meet our commitments in the next biennium and I think that the casino bill and the slot machine bill—if both of them were adopted it would go a long way and help. But if

either one were adopted, especially the slot machine section, if that were put into effect it would injure nobody, it would have none of the connotations of casino. It is no different than beano—the town of Manchester is loaded with gambling; the state is a gambling state; there are thousands of publications dealing with gambling today; even some of your more conservative magazines have come out and pointed out that gambling has become more and more legitimate across the country. I put in quite a bit of work on this bill and I hope very much that it would be held as a stand-by bill in case of an emergency—it will cost the state nothing. It would be a bonanza in case it was put into effect. The bill was submitted by me alone, no lobbyists were involved, I asked for no help on this bill, I sponsored this bill purely to help the State of New Hampshire.

Sen. MONIER: I will be brief; I would just like to indicate again, that the New Hampshire Senate is stymied in any attempts to raise any kinds of revenues outside of mandatory taxation particularly, in the sense of those that can bring in large amounts of revenues such as slot machines or casinos. I warned that would happen two days ago and I think that has happened in which we have already had one returned and perhaps now gone to interim study as a result. In short we no longer have a 2-member body on this kind of a thing.

Sen. BRADLEY: I rise in opposition to sending this to interim study; I think we ought to kill the bill now. I have always been opposed intellectually and philosophically as you will to casino gambling and slot machines—only last week I had an experience somewhat vicariously, which has really brought this home to me in a much more gut fashion. I have a friend whose wife has a sister who lives in Las Vegas, married to a doctor. The doctor along with some other people intended to invest in a casino. They received some warnings that they ought not to try to do it. But they apparently went ahead. The sister, mother of small children, was visited only about a week or so ago, by some thugs, armed to the teeth, who were ostensibly there to rob them and apparently the police were tipped off and they arrived and there was a shoot-out in their apartment, someone was injured, blood on the kitchen floor, the windows were shot out, a shot gun blast went into the refrigerator. You can't hear that kind of story from people you know without being affected. Now I can't prove to you and neither can they that it was the gambling interests of the mafia

that was behind that holdup. But the police told them that they assumed that these people were there as missionaries from the mafia. This bill is going to authorize Las Vegas-type casinos. The only point I want to make is if we were to study any kind of gambling bill, and give anybody any kind of encouragement that we are interested, it seems to me that we would study one that was state-owned casinos. This bill is the worst possible kind of bill for casino gambling and I think we ought to kill it without giving anyone any further encouragement.

Sen. FENNELLY: Unclear.

Sen. BRADLEY: You are without a doubt the best known authority on the subject of gambling and have always given me a great deal of helpful information.

Sen. FENNELLY: Unclear.

Sen. BRADLEY: I certainly do and I think you are qualified, today, to tell this senate the dangers of the Las Vegas-type of operations. And you don't have to let anybody think that we are going to do it.

Sen. SMITH: Senator the motion as I understand it is to send it to interim study. If in my home town the selectmen had introduced an article into the warrant at town meeting which would indicate that the town go on record in favor of casino gambling, and an amendment added to that on the floor at town meeting to include slot machines and that resolution or that article in the warrant was unanimously defeated by 3 to 400 people and senator if you had had more mail and more petitions in opposition to casino gambling than any other piece of legislation since I have been in the senate, would you vote to send it to further study, interim study?

Sen. BRADLEY: I love these questions.

Sen. ROCK: Senator Bradley, you spoke in opposition to sending this bill to interim study because you were displeased with its drafting. Based on that assumption and having served on interim studies yourself you know, haven't you seen interim study committees take poorly drafted bills that completely missed the point, turned them around and come out with legislation that is either meaningful or with a report that is definitive to their feeling on the issue?

Sen. BRADLEY: Senator this is one bill which I am not nitpicking on the draftsmanship—the draftsmanship on this bill may be fine I haven't studied it that much. What concerns me about this is the basic thrust, the basic concept, to study,

to take our time and to vote here today in a positive way which can't help but be misconstrued that we are somehow interested in this thing to do those things. It is wrong. I don't think that there is any form of casino gambling or slot machine gambling particularly non-state owned, which can be studied to no good end and I don't think anything valid or useful can come out of the study.

Sen. SMITH: Could we not assume senator that if this committee in its wisdom and its work, finds that private-enterprise type casinos are indeed all the things that you say they are, that they in turn could turn the bill into a different kind of casino gambling bill, one that would be state-operated or further, could they not, in their wisdom, study the issue, as I am sure Senator Downing would, come out with a report that says casino gambling owned by the state or private enterprise or anybody else is no good and we don't want it. Wouldn't they do this with this bill?

Sen. BRADLEY: Yes they could and I would be reasonably confident that this is what they would do. But as I say it cannot help but encourage the wrong elements to come back—I can see the Four Seasons coming back here and setting up shop—they have something to work again with—the senate has kept alive a gambling bill. I don't want to open that door and I don't think that anybody on the Ways and Means Committee has any doubt about the evils proposed in this bill. And there is no reason why we should duck this issue right now.

Sen. BOSSIE: Senator, I am sorry that I did not get all of your little speech when you previously talked on this bill, well I wanted to know when you were talking about the selectmen and all of that business, I wanted to know as to whether or not when you speak of the purity or not of gambling, it seems having grown up in your district and having gone to the Plymouth fair, there seems to be a lot of gambling there, isn't there?

Sen. SMITH: To my knowledge, at the present time, the sheriff's department of Grafton county has taken very good care of eliminating that, in these later days, and maybe in your youth you may have found such things.

Sen. HEALY: Senator Bradley, in your discussion about the casino bill and why you are opposed to it, you consistently mention Las-Vegas. This bill in no way and no concept whatsoever, had anything to do with Las Vegas, their operations

or anything at all. You also mentioned the attorney general's rather, have a tendency to worry about casino. I'm wondering if the attorney generals worry about marijuana when the State of New Hampshire seems to becoming the warehouse of the possible group operated by the mafia. There is an awful lot of marijuana being stored in New Hampshire on occasions and involving deaths if I recall far back. You don't mention these things. Now do you think that marijuana is something good for the State of New Hampshire. Do you think that perhaps the attorney general might be ignoring the fact that there is marijuana around the state of New Hampshire?

Sen. BRADLEY: The attorney general's office worries about anyone violating the law, and particularly the mafia being involved in any violations of the law in this state.

Sen. HEALY: Have you ever been approached or know of a member of the mafia?

Sen. BRADLEY: I don't know.

Sen. HEALY: I am in the same category as you. No one yet has approached me on this bill—not even the Four Seasons, not even any manufacturers of any machines or anything else. This bill has been handled by me and me alone and I have had no commentaries on it and I have had about six letters of protest. Senator Smith as received quite a few. He has received approximately 10 times more than I have and I have the bill. I presented the bill. Six protests and a great many people have advocated it and are for it. The connotation that you put on it seems consistently to be casino as far as Las Vegas is concerned. This casino bill means that even if small restaurants wanted it or use a phase of it, my bill would call for a small restaurant having a room set up for a small type casino. Maybe only part of what they want to operate. Maybe only slot machines. I think that the people are deceived on perhaps only the casino itself. Big hotels and where they are going to bring in big shows and a whole lot of people into the state. It may bring in some convention people to help out the north country and that and even the south country. I think it would be a great asset to the state.

Senator Bossie moved the previous question.

Adopted.

Amendment adopted.

Motion for interim study.

Sen. JACOBSON: Despite Senator Blaisdell's comments that I was possibly skittish I want to say and I have said it before, that I am unalterably opposed to casino gambling or slot machines in any way, shape or form. And I am even opposed to studying it. I don't believe that that kind of mechanism belongs in New Hampshire. I believe it will change irretrievably the nature and character of New Hampshire. Now I don't believe that the senate should waste its time even studying it. I hope I have made myself perfectly clear. I cannot be persuaded by any way or means to change my view.

Sen. DOWNING: Mr. President, I am somewhat distressed by the words of opposition that come to sending this bill to interim study. Unfortunately too many of the words would have you feel that in some way you are supporting this type of revenue raising if you were to vote to send it to interim study. I don't think that is the case at all. To have a member of this body have a constituency that says they need something, they want something. And that senator introduces a piece of legislation, a lot of money has already been spent just evolving it, having it printed—he thinks this is something that ought to be done. If 23 of us feel that it is wrong that we don't agree with it—do we do it on the basis of understanding it and we don't want to know anything about it or do we give him reasons why we disagree with him. I don't like to rely on senatorial courtesy because that has been proven to be pretty thin ice recently—but it does exist hopefully today. I really, with a thorough understanding and have it in the record, that a vote in support of sending this to interim study by the Ways and Means Committee is no way a vote in support of that means of raising revenue. Let it be thoroughly understood. But rather a committee of the senate says we would like to be better informed on the subject, the wording of the particular vehicle means nothing. Senator Rock pointed out that the final decision of a committee could be entirely different than what it was presented initially but it gives you a basis to start with. I think my own feelings relative to casino gambling and slot machines have been made pretty clear in a report that was issued to you recently as a result of a conference I attended in Washington on gaming laws. Senator Fennelly the vice-chairman of ways and means, is involved with the same report. So there is no secret to anybody what at least some of the feeling that exists in the Ways and Means Committee. The

overriding thing is that you have a senator that has a constituency as do all of us, that has indicated an interest or concern for a particular subject. The Ways and Means Committee does not feel equipped to make a positive recommendation nor does it feel justified to make a completely negative recommendation at this time. And we are saying let us take a look at it—I think it is a fair thing to do. I think it is reasonable and I hope you do it.

Sen. BLAISDELL: I am all for senatorial courtesy but sitting in this seat, here, Senator Healy said to me that he smoked me out, that I am a broad-based taxpayer, because of my tax reform measure. Would that tax reform measure that I asked Senator Healy to vote for, would that encompass anything to do with casino gambling. Would we be able to study what that would have done for the State of New Hampshire? Would that committee have taken a hard look at that senator?

Sen. DOWNING: They may have senator and as you know I supported your bill in the last session as well as in this session.

Sen. BLAISDELL: Yes you did senator and I thank you very much but Senator Healy did not and I just wonder why he wants me to support him to study this.

Sen. DOWNING: Well I think senator to answer your question, that it is the committee that is making the request not necessarily Senator Healy although he has supported the request of the committee. I would hope that you wouldn't vote against the committee on the basis of a get-even type situation with Senator Healy.

Sen. BLAISDELL: I am not saying that I would like to get even, senator, I am saying that I just don't understand the rationale of what he wants me to do. Now he refused me three weeks ago.

Sen. DOWNING: I think you have made your point.

Sen. BRADLEY: I'd like to know that senatorial courtesy is still alive and well in the senate and that my vote in no way detracts from the principle. Now I have never thought that senatorial courtesy extended to the point that any member of the senate by introducing something could get it sent to interim study and cause it the committee to study. Now suppose the bill were to legalize prostitution, do you think that this committee of the senate would have to waste its time under the concept of senatorial courtesy to study that issue?

Sen. DOWNING: Senator I have no idea what the mind of

the senate would be on that particular subject—what I am saying is that you don't necessarily vote against the committee report because you oppose the subject matter. I recognize that you make each decision as it comes down the road but I don't think you should oppose it strictly on that basis.

Sen. HEALY: Senator Blaisdell, this bill would never have been brought in here to this floor if we could appropriate enough money to meet our future budget and when I ran for office I ran for one provision that I would in no way endorse or support either a sales or income tax and therefore I did not actually perversely vote against Senator Blaisdell but I do vote against any time of a sales tax or income tax and that's why I voted that way.

Sen. JACOBSON: Senator Healy, I appreciate the statement that you just made and you could also accord that same privilege to every member of the senate who happens to be unalterably opposed to casino gambling or slot machines, would you not?

Sen. HEALY: That's true I would.

Sen. MONIER: Senator, Mr. President, this is an amazing debate. For one thing Senator Healy, let me remind you that you didn't smoke Senator Blaisdell out at all; anyone of us who have been sitting next to him for four years, gets his ear bent everyday that he is a broad based taxer. I have no problem with that—every once and a while, he gets an education as to what to do with buffalo chips. The truth of the matter is that I rise in support of the motion for interim study but I do it for a different reason. I do it not because I am for casino gambling, that is a matter of record that that is one form that I don't particularly care for, I do it because I think that once again what we are doing here in the last days, is following the same pattern I have been harping on that has been done since January and that is tie it all together. Any revenue that can raise the kinds of revenue that we are going to wind up needing if we keep spending it is put it down the drain someplace and I think this is another way to kill it. I want it in the Ways and Means Committee, I want them to study it carefully; I don't care if they study casino or anything else because as long as it is there there is a possibility that the state has a way of raising money besides taking it out of the guy's pocket in the street or and I say or, once again, I thoroughly appreciate Senator Bradley's comments because I think if Senator Bradley was asked that question about any gambling bill, if I re-

member in the four years I have been here and I remember a debate we had here two years ago in which he thought I was wrong and I told him I was consistently wrong—I think you're wrong on this but at least you're consistent with it Dave and I say the same thing to Senator Jacobson. I think he is already on record to the fact that he does not want these kinds of things and that it will change New Hampshire. I just pose the question that I think New Hampshire will change also with a sales and an income tax. I think you ought to keep that in mind too. I want it there primarily so that we do have a vehicle which the Ways and Means can study and it is not a tax bill.

Sen. BRADLEY: Do I detect that you are saying that if it came down to a choice between casino gambling and a form of broad-based tax to use your term, that you would choose casino gambling?

Sen. MONIER: No you cannot. I would choose neither one of them, I would fight to see if we could just chop the cost of government.

Sen. BRADLEY: Then I cannot understand your logic for wanting to keep this bill alive so that there is a possibility that you can bring it back out.

Sen. MONIER: No, but I will answer your question very simply—it is the same logic that you have. You have an aversion to gambling and I respect you for it. I have an aversion for broad-based tax, please try to respect my opinion.

Sen. BRADLEY: I respect that opinion and I understand your position that you would fight to the last ditch to cut rather than adopt a broad-based tax or adopt casino gambling. If that is your petition I don't understand your logic of wanting to keep alive a casino gambling bill.

Sen. MONIER: I think Senator Bradley that this bill is a bill that Ways and Means can deal with. You answered yes to a question that Senator Rock's questions—that the bill might come out without any recommendation; it might come out in an entirely different form; it might come out dealing with some other form of revenue and that ought to be answer enough for you.

Sen. BRADLEY: In other words this bill could be the vehicle for Senator Blaisdell's tax study bill.

Sen. MONIER: It possibly could and if it did Senator Bradley, I will remind you that I would vote against it as I did before.

Senator Bradley requested a roll call. Seconded by Senator Trowbridge.

The following senators voted yea: Lamontagne, Gardner, Bergeron, Monier, Rock, McLaughlin, Keeney, Healy, Provost, Brown, Bossie, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Poulsen, Smith, Bradley, Jacobson, Saggiotes, Blaisdell, Trowbridge, Hancock.

15 yeas 8 nays

Adopted.

ANNOUNCEMENTS

The Senate President established a Senate Elections Committee. The committee will consist of Senator Jacobson, Chairman, Monier, Brown, Bossie and Bergeron.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills, 741, 1087, 629, 863, 1153, 1155, 951, 1181, 975, 529, 1057, 826, 830, 1055, 845, 525, 505, 388, 434, 456, 728, 620, 644, 782, 825, 898, 926, 1064, 326, 786, 964, 1094, 1095, 1097, 1178, 345, 515, 769, 899, 140, 805, 827, 838, 1172, 478, 724, 725, 1189, 971, 670, 723, 343, 755, 772, 1185, 1186, 1184, 390, 29, 67, 167, 839, 1090, 1187, 1188, 49, 127, 139, 266, 1091, 22, 652, 757, 1166, 803, 355, 929, 1117, 853, 1030, 1038, 1044, 1144, 615, 682, 811, 1056, 1067, 1069, 1073, 1076, 1158, 1159, 522, 218, 1063, 961, 410, 207, 93, 995, 867, 861, 717, 555, 550, 914, 702, 1137, 1130, 1029, 1026, 913, 627, 1084, 814, 1004, 950, 1141, 1134, 931, 498, 886, 1045, 824, 877, 205, 371, 409, 448, 982, 993, 999, 420, 872, 809, 1178, 939, 1127, 1139, 572, 900, 902, 968, 1060, 1163, 1149, 305, 986, 832, 854, shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 741, establishing a study committee to determine financing methods and requirements for the decommissioning of nuclear power facilities. To Energy.

HB 1087, to extend the voluntary commitment of certain patients at New Hampshire hospital. To Judiciary.

HB 629, altering gross weight and axle distribution limits for 5 axle trucks; providing for an increase in registration fees; and limiting vehicle loads to the rated capacity as determined by the manufacturer. To Transportation.

HB 863, relative to certified copies of certificates of registration. To Administrative Affairs.

HB 1153, relative to reporting audit findings in summary form. To Executive Departments.

HB 1155, relative to the conveyance of property acquired by a town or city at a tax sale. To Executive Departments.

HB 951, relative to the removal of absent town budget committee members. To Executive Departments.

HB 1181, relative to prorating motor vehicle permit fees. To Transportation.

HB 975, relative to mandatory installation of smoke detectors in structures for occupation built after 1978. To Environment.

HB 529, relative to reimbursing victims of violent crimes and making an appropriation therefor. To Judiciary.

HB 1057, relative to tax abatement on municipal airport property in Manchester and Londonderry. To Transportation.

HB 826, establishing a primary for Rochester city elections. To Cities Legislation.

HB 830, relative to road toll rebates. To Transportation.

HB 1055, prohibiting the Rockingham county attorney from engaging in the private practice of law. To Judiciary.

HB 845, revising the access to public records law (RSA 91-A). To Executive Departments.

HB 525, authorizing a transfer of funds between two projects in the 1975 capital budget. To Capital Budget.

HB 505, relative to parking facilities at Hampton Beach and making an appropriation therefor. To Recreation.

Referred to the Senate Committee on Election Laws

HB 769, establishing primary elections for the cities of Laconia and Somersworth.

HB 899, relative to reporting vote totals by party for nominees of more than one party.

HB 140, eliminating the requirement that at least one city or town intervene between an absentee voter and the place in which he is legally entitled to vote.

HB 805, providing an opportunity for absentee balloting at any election which uses an official ballot.

HB 827, relative to recounts and disqualification of candidates in primary elections.

HB 838, requiring the secretary of state to notify all persons of write-in nominations for the house of representatives.

HB 1172, relative to the filing dates for candidates in the primary for any elective office.

HB 478, relative to the governor issuing a certificate of election.

HB 724, prohibiting the posting of election advertising on highway rights-of-way.

HB 725, removing the requirement for filing financial statements with town or city clerks.

HB 1189, concerning the reporting of political expenditures, advertising and contributions by certain committees and certain candidates.

HB 971, removing minor officials from the biennial ballot.

HB 670, relative to counting ballots at elections.

HB 723, eliminating the requirement for the residence of a candidate on the ballot.

HB 343, relevant to absentee voting.

HB 755, relative to the marking of ballots in elections held in the state.

HB 772, prohibiting candidates for any elective position other than a position as an election official, from working within a polling place.

HB 1185, concerning purity of elections.

HB 1186, relative to legal voters.

HB 1184, relative to a temporary absence from residence and its effect on voting rights.

HB 390, relative to the selection of delegates to national presidential nominating conventions.

HB 29, amending the election laws relative to the qualifications of a candidate filing for certain political offices.

HB 67, requiring that candidates for a given office be listed on the ballot in random order, rather than alphabetical order.

HB 167, relative to legal voters changing party affiliation and the posting of checklists.

HB 839, increasing the filing fees for certain elective offices and increasing the signature requirements for filing primary petitions.

HB 1090, relative to filing for an office when at the time of such filing a person is not of the age to qualify for that office.

HB 1187, increasing the jurisdiction of the ballot law commission.

HB 1188, concerning membership of the ballot-law commission.

HB 49, relative to the procedures for the filling of vacancies in certain elected offices.

HB 127, requiring proof of residency in order to register and to vote.

HB 139, providing for the filing and public availability of checklists after every biennial election.

HB 266, relative to meetings of supervisors of the checklist in cities and towns.

HB 1091, relative to overseas citizens voting rights.

HB 22, establishing a recount procedure for votes at special meetings of towns with official Australian or nonpartisan ballots.

HB 652, relative to the sealing and certifying of ballots.

HB 757, relative to the designation of office on ballots.

HB 299, to provide New Hampshire home for the elderly classified employees a differential pay increase. To Finance.

HB 388, relative to the monthly rate for the care, treatment, maintenance and training of any resident of the Laconia state school and training center. To Joint Public Institutions and Finance.

HB 434, relative to certification of shared homes for adults. To Public Institutions.

HB 456, providing for the preparation of an election procedure manual and making an appropriation therefor. To Executive Departments.

HB 728, permitting a creditor to telephone a debtor at his

place of employment twice a month under certain conditions. To Energy.

HB 620, relative to contributions in the unemployment compensation law. To Insurance.

HB 644, relative to the definition of subdivision under the planning laws. To Executive Departments.

HB 782, relative to effective dates for laws which have a municipal fiscal impact. To Executive Departments.

HB 825, providing for a referendum to determine the form of city government for Dover. To Cities Legislation.

HB 898, relative to amending provisions of the Nashua City Charter. To Cities Legislation.

HB 926, amending the town charter of Hanover allowing selectmen to establish one or more parking districts. To Executive Departments.

HB 1064, relative to listing all exemptions on the annual inventory form. To Ways and Means.

HB 326, adopting the provisions of the uniform vehicle code pertaining to the operation of emergency vehicles. To Transportation.

HB 786, relative to defective equipment tags. To Transportation.

HB 964, relative to a motor vehicle franchisor's responsibilities for warranties. To Transportation.

HB 1094, relative to the operation of state weigh stations. To Transportation.

HB 1095, relative to certificates for common carriers. To Transportation.

HB 1097, permitting the use of certain radio-type equipment while operating a motor vehicle upon a public way. To Transportation.

HB 1178, establishing the offense of using excessive fuel and specifying the effects of a conviction for using excessive fuel. To Energy.

HB 345, relative to the appointment of assistant secretaries of state. To Administrative Affairs.

HB 515, establishing a study committee to investigate costs and methods necessary to update the record-keeping functions in the office of the secretary of state. To Administrative Affairs.

HB 1166, relative to establishment of contractor's bid depository system by the commissioner of public works and highways. To Transportation.

HB 803, relative to insuring the proper disclosure of information from vital records. To Administrative Affairs.

HB 355, regulating health maintenance organizations. To Executive Departments.

HB 929, giving municipalities the option to designate certain areas within their jurisdiction as critical and to permit development therein when in accordance with protective standards. To Executive Departments.

HB 1117, providing for the local regulation of excavations. To Environment.

HB 853, relative to franchise disclosure law. To Judiciary.

HB 1030, concerning neglected and delinquent children and persons in need of supervision. To Judiciary.

HB 1038, relative to providing criminal penalties for the copying of recorded devices. To Judiciary.

HB 1044, relative to the public employee labor relations law. To Administrative Affairs.

HB 1144, relative to the establishment of workmen's compensation self-insurance programs. To Insurance.

HB 615, relative to interest charges charged upon all taxes other than resident taxes not paid on time. To Administrative Affairs.

HB 682, relative to the motor vehicle collections by town clerk or other municipal official and providing for the removal of a town clerk for cause. To Executive Departments.

HB 811, increasing the fees paid to county medical referees. To Public Institutions.

HB 1056, relative to home rule. To Executive Departments.

HB 1067, establishing a voluntary arbitration system for handling settlement disputes in welfare cases. To Administrative Affairs.

HB 1069, relative to municipalities employing prosecutors for district or municipal courts. To Judiciary.

HB 1073, relative to the powers and findings of the zoning board of adjustment and rehearing before said board. To Executive Departments.

HB 1076, providing for exemption of machinery and equipment from the property tax. To Ways and Means.

HB 1158, relative to the definition of class VI highway and the status of existing class VI highways. To Transportation.

HB 1159, authorizing towns by local referendum to acquire and dispose of industrial facilities. To Executive Departments.

HB 522, increasing the fee for initial number plates from \$5 to \$10 and requiring that initial plates be issued each year. To Transportation.

HB 218, renaming the bureau of off-highway recreational vehicles and establishing an additional responsibility for the bureau. To Transportation.

HB 1063, relative to appropriations of governmental units by warrant articles. To Executive Departments.

HB 961, relative to the legitimation of children born out of wedlock. To Judiciary.

HB 410, relative to the competency of persons applying for a hunting license for the first time. To Recreation.

HB 207, relative to hunting with bow and arrow. To Recreation.

HB 93, relative to the licensing of electrologists. To Administrative Affairs.

HB 995, relating to the disposition of personality in police department property rooms. To Administrative Affairs.

HB 867, requiring telephone companies to list the names of both husbands and wives in their directories. To Energy.

HB 861, relative to the regulation of odometers. To Transportation.

HB 717, relative to loan pay-back requirements for resident veterinary medical students. To Banks.

HB 555, creating a state historical records advisory board and making an appropriation therefor. To Executive Departments.

HB 550, relative to agreement with veterinary medical schools to provide education to qualified New Hampshire residents. To Education.

HB 914, providing for a voter petition to amend subdivision regulations in a town. To Executive Departments.

HB 702, relative to vicious dogs or dogs as a nuisance. To Executive Departments.

HB 1137, relative to capital punishment. To Judiciary.

HB 1130, relative to the dispensation of controlled drugs. To Judiciary.

HB 1029, adding exceptions to the licensing of child caring and child placing agencies. To Public Institutions.

HB 1026, relative to lead paint poisoning in dwellings. To Public Institutions.

HB 913, relative to probation reports. To Judiciary.

HB 627, prohibiting certain advertising and expenditures by electric and gas utilities. To Energy.

HB 1084, regulating motor vehicle and motorcycle sound emission levels. To Environment.

HB 814, amending the eminent domain procedure act. To Judiciary.

HB 1004, extending waiver time for participation in the school lunch program. To Education.

HB 950, relative to defining service territories for electric utilities. To Energy.

HB 1141, establishing a New Hampshire right to privacy act. To Judiciary.

HB 1134, making the person chargeable by law for a child's support and necessities primarily liable for the expenses of a neglected or delinquent child or person in need of supervision. To Judiciary.

HB 931, relative to the ability of a defendant to pay a judgment. To Judiciary.

HB 498, relative to the state's burden of proof in recommitment hearings for the criminally insane. To Judiciary.

HB 886, permitting the reduction of an employer's or employee's insurance carrier's lien under the workmen's compensation law in certain cases. To Insurance.

HB 1045, relative to the display of wheelchair symbol to indicate buildings accessible to handicapped and elderly persons. To Administrative Affairs.

HB 824, providing for tax increment financing for redevelopment projects. To Ways and Means.

HB 877, relative to the filling of vacancies on the Laconia school board. To Education.

HB 205, relative to claims for damages against motor transport companies. To Judiciary.

HB 371, relative to the use of highway relocation funds. To Transportation.

HB 409, changing the name of RSA 483-A and specifying that certain penalties relative to state waters apply to all violators. To Environment.

HB 448, relative to retirement benefits for judicial referees. To Judiciary.

HB 982, relative to reciprocity in dentists licenses. To Administrative Affairs.

HB 993, relative to the regulation of the sale of variable contracts. To Energy.

HB 999, relative to joint authority of public officers. To Judiciary.

HB 420, relative to tax exemptions for the elderly. To Ways and Means.

HB 872, exempting Christmas trees and related forest products from the timber tax law. To Ways and Means.

HB 809, relative to staff requirements for the bureau of certificate of title in the division of motor vehicles of the department of safety. To Executive Departments.

HB 1173, relative to cemeteries. To Executive Departments.

HB 939, authorizing the director of the division of motor vehicles to issue a 5 day permit for a motor vehicle, trailer, semi-trailer or tractor. To Transportation.

HB 1127, relative to terms of certain gubernatorial appointees. To Executive Departments.

HB 1139, relative to the judicial budget procedure. To Finance.

HB 572, relative to the custody of moneys raised for or received by various agencies of municipal government and the timely deposit of funds paid to town treasurer. To Executive Departments.

HB 900, authorizing cities and towns to discontinue public highways subject to existing utility easements. To Executive Departments.

HB 902, to specify criteria to be used by the board of taxation in reassessments of municipalities. To Administrative Affairs.

HB 968, eliminating the 5 year requirement for reassessment of property held by a municipality for water supply or flood control purposes. To Environment.

HB 1060, legalizing certain action taken by the town meeting in the town of Durham. To Executive Departments.

HB 1163, legalizing the 1977 annual town meeting of the town of Exeter. To Executive Departments.

HB 1149, relative to the preparation of a town budget under the municipal budget act and budgets for counties, school districts and village districts. To Executive Departments.

HB 305, reclassifying certain positions at Laconia state school. To Finance.

HB 986, requiring public utilities' rates to be based on a current level of services. To Energy.

HB 832, amending certain time limits under the uniform motor vehicle certificate of title law. To Transportation.

HB 854, authorizing the director of the division of motor vehicles or his agents to examine vehicles in certain locations. To Transportation.

Senator Bossie moved to take HB 109 from the table.
Adopted.

HB 109, relative to official state songs.

Senator Rock moved an amendment to HB 109.

Amendment to HB 109

Amend RSA 3:7 as inserted by section 1 of the bill by striking out paragraphs VI and VII and inserting in place thereof the following:

VII. "Oh, New Hampshire (you're my home)" with words and music by Brownie McIntosh;

VII. "The Old Man of the Mountain" with words and music by Paul Belanger; and

VIII. "The New Hampshire State March" with words and music by Rene Richards.

Sen. ROCK: During the special session last year Mr. President, I was asked by a constituent, Mr. Rene Richards of Nashua to introduce a state march as an additional state song. It was my feeling that because of the nature of the one-day special session the introduction of a state song would not be appropriate but more appropriate under a regular session and I so informed Mr. Richards. I was very impressed with Colonel Benton when he made his presentation to us and I believe there was some misunderstanding on my part and perhaps to other members of the senate with whom I discussed the issue as to where we stood with this law. I had understood in the debate and I had asked the question on the floor of the senate, does this mean that any state song, any song that comes before the special committee could be the state song and I was given the answer yes. But what I did not get out of that discussion and perhaps it is my fault was that any song that had been adopted as a state song up until the time of now, and was

not chosen as a state song would be an honorary song but indeed in fact and in truth any song could come before the special committee but it would come before it with no more or no less authority or backing by the legislature than any other song. Every song that goes to the committee has a shot at the golden ring. What they don't have is the honorary position of a state song. Now to go back to Mr. Richards. Mr. Richards served 20 years in the U.S. Army and he has an exceptional musical talent and what my amendment does is make the New Hampshire State March a state song and from the point on when the committee begins its deliberation it has no more leeway or lead on any other song than one that Senator Lamontagne might sing or Senator Gardner might introduce or anyone else. I am hopeful that the senate will listen to the march, I have distributed the words to you that we put on this simple amendment, and then let the committee that Senator Bossie is representing the senate, go on its way and that is the thrust and the full intent of the amendment that we would then have an honorary state march which we don't have now.

Sen. MONIER: Senator Rock you are not implying that we have to listen to Senator Lamontagne sing it?

Sen. ROCK: With respect to Senator Lamontagne if he wanted to sing it I would be happy to hear it. Senator Bossie has a musical talent—he assured me that he could read the music and I have the sheet music here that is several pages thick and I don't think you want to distribute that—if you would like to hear the march . . .

Sen. FOLEY: Is this Richards person the tennis player?
(The March is played and Senator Lamontagne hums it.)

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Saggiotes moved to suspend the rules of the senate so far as to introduce a committee report on **SB 359** not previously advertised in the journal.

Adopted.

SB 359, relative to dental practice in New Hampshire. Ought to pass. Senator Saggiotes for the committee.

Sen. SAGGIOTES: Unclear. For licenses and registration

and so forth. At the present time the fees are set by statute at \$50.00 for dentists and \$25.00 for hygienists and the registration is \$15. biannually. Allowing them to establish their own fees will give them a greater amount of money thus more money in the general fund. It would also allow the dental board to have legal counsel of their own choosing rather than to rely on the attorney general's office which at the present time they are forced to do so by statute. It also changes the stringent requirements as far as the members of the dental profession who apply for licensing. At the public hearing I am sorry to say there was no one testifying for the bill due to the time problem that we have last week.

Sen. BOSSIE: Senator it is very interesting that to be on this board a member of the dental profession has to have been a dentist for 10 years before he could be a member of the board. I just don't see any rationale for that, if somebody is a dentist then they should be on any board of their peers to regulate the industry.

Sen. SAGGIOTES: The answer to that Senator Bossie is that the individual on the board would be more familiar with the state and members of the dental association.

Sen. BOSSIE: Senator would you have any objection if a motion were made to send this to interim study so that more time could be devoted to the study of a very intricate bill, one which could limit the members of a profession and at the same time would permit them rather unusually to hire their own legal counsel rather than to use the attorney general, would you object to that?

Sen. SAGGIOTES: Yes I would senator, if you are looking for further study we could do the same thing that we have done with other bills, passed it in the senate and let the house take it over.

Sen. ROCK: Senator does this bill have any teeth in it or do we have to bit the bullet to pass this bill?

Sen. SAGGIOTES: I don't think so senator.

Sen. SMITH: Senator following up on Senator Bossie's question, isn't it normal practice for a state revenue agency law to hire their own legal counsel supplied to them by the attorney general's office?

Sen. SAGGIOTES: In many instances, yes but this comes out of their own fees, their own funds which they get from fees.

Sen. SMITH: On the appointment of the members, is there

any change in that, I think what I am getting at specifically, the members are appointed by the governor, the names have to come from a list supplied by different units, for example the dental board, dental hygienists?

Sen. SAGGIOTES: That is correct.

Sen. SMITH: Is that the case or is this a change?

Sen. SAGGIOTES: I think that is the present law; it is a list on recommendation by the dental board to the governor and council and that is in this act.

Sen. TROWBRIDGE: I have no particular objection to Senator Saggiotes thing on the composition of the board but I would like to say that almost every board or commission at one time or another has asked to get their own legal counsel. I think we should recognize if we pass this bill which has had no hearing that I have heard of, and say that you can go out and hire your own counsel there is no limit on it that you will have every other board and commission coming in and saying and want to do the same because they don't think they are adequately handled by the attorney general's office so I think you ought to be very careful in watching this one. The lawyers will like it, the judges may not but it has ramifications beyond the one board.

Senator Bossie moved that **SB 359** be referred for interim study to Public Institutions.

Sen. BOSSIE: Mr. President, up until a few minutes ago obviously I and many of my colleagues have not had the opportunity to read this bill extensively. From a brief perusal of this bill it appears that there are too many ambiguities or vagaries that would not warrant its passage at this time. Especially with regards to the remarks of Senator Trowbridge—being a lawyer we do like business. However, the fact remains that the attorney general does a good job and their office does—and I would feel better both as a senator and as a private citizen to have the office of attorney general represent these agencies rather than to hire outside counsel with no limit on the expenditures. Certainly money is the name of the game in our state for expenditures. I am not very pleased very much at all with the make-up of the board and I think this is the type of thing where a little give and take can help the bill tremendously. It may be a very important bill to the dental profession and I appreciate any attempt by them to police their own. The

fact remains that this is something that we should have more deliberation to and not just pass our problem to the house. This is something that we should have done some homework and I realize it is late and with the office of legislative services it is difficult to get any bills out, but I think that would be a good place for this bill and I am not on the committee to study it but I would like to spend some time myself studying it.

Sen. SAGGIOTES: Senator Bossie two questions. Number one you realize that at the present time there isn't a consumer on the dental board and with this bill you would have consumer representation.

Sen. BOSSIE: I have no objection with putting consumers on the board even the bar association board.

Sen. SAGGIOTES: Second, furthermore you realize that the legal fees would be paid from the board's appropriation rather than from state general fund thereby a possibility of saving state money.

Sen. BOSSIE: I'll tell you what really bothers me about that and this has nothing to do with this bill. But I read in the local newspaper in Manchester that in the medical association they had assessed each one of their members \$100 to fight the malpractice bill in the house. They had \$140,000. I don't want any organization to require their members to pay a certain amount for any legislation and if this is what this is going to end up being—that they have a lawyer who turns out to be a lobbyist who turns out to be much more than we had bargained for—I want nothing to do with it. We know that the attorney general won't be a lobbyist.

Senator Blaisdell moved to lay **SB 359** on the table.

Motion failed.

Motion of interim study.

Adopted.

INTRODUCTION OF SENATE BILL APPROVED BY SENATE RULES COMMITTEE

First and Second Reading and Referral

SB 369, authorizing the town of Littleton to exceed its bonded indebtedness to cover present indebtedness of the Littleton Water and Light Department. (Poulsen of Dist. 2—To Banks.)

SUSPENSION OF RULES

Senator Poulsen moved that the rules of the senate be so far suspended as to allow the introduction of a committee report of **SB 369** without proper notice in the journal or a prior public hearing.

Adopted.

COMMITTEE REPORT

SB 369, authorizing the town of Littleton to exceeds its bonded indebtedness to cover present indebtedness of the Littleton water and light department. Ought to pass. Senator Poulsen for the committee.

Sen. ROCK: The problem on the bill coming in at this late time is that the town of Littleton has found that their water and light company owes the Public Service Company of New Hampshire something in the vicinity of ½ a million dollars and because they owe this money they are being charged interest by the Public Service Company of New Hampshire at the rate of eighteen percent per annum. They underpaid their account and when the water thing took place the deficit was found and they would prefer to raise money through their debt ceiling to pay the bill because it would cost them less in interest to pay it that way than it would to pay the interest from Public Service. They don't have that much money to pay them what's due now. It allows them to extend their debt ceiling to the extent that this bill could be paid.

Sen. POULSEN: This information only came to me on Monday and I only today was able to talk to the municipal revenue people at the department of taxation. It is their suggestion that it be handled this way, that we legalize the ability of the town to bond beyond their legal limit to reduce this 18% rate that they are now paying on their deficit to a reasonable figure so that they can catch up with where they are . They will have to raise the rate on electricity which has already been approved by the PUC. I am only glad that I am not a selectman at this time. Someone certainly was remiss to let this happen—but it did happen and apparently over the last

year between audits or since the last audit and escaped notice until very, very recently.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Lamontagne moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report on **SB 368** without proper notice in the journal.

(Senator Bossie in the chair.)

Senator Provost moved the previous question.

Adopted.

Senator Lamontagne requested a roll call. Seconded by Senator Poulsen.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Jacobson, Saggiotes, Monier, Rock, McLaughlin, Hancock, Sanborn, Brown, Fennelly, Foley.

The following senators voted nay: Smith, Trowbridge, Keeney, Healy, Provost, Bossie, Downing, Preston.

14 yeas 8 nays

Motion failed by the necessary 2/3.

VACATE

Senator Bergeron moved to vacate **SB 368** from the committee on Cities Legislation to the committee on Finance.

Sen. TROWBRIDGE: The bill I am referring to is SB 368 for which we had a hearing and no one appeared neither for or against, only the sponsor, at the same time there was a telephone call made by Councilman Albert Terio who was the only one who was in opposition. The rest of the city council of the city of Berlin was in favor of abolishing the municipal power of the department of authority of the city of Berlin and this is only to repeal a vote that had been made by the city in 1970.

Sen. DOWNING: Senator you say that this councilor Terio is the only councilor opposed to what you want to do in this bill that you are introducing?

Sen. LAMONTAGNE: At last count we had a workshop meeting at the city council last Monday and no one in fact councilor Terio, never opposed during the meeting or had any objections to this special election.

Sen. DOWNING: I guess I received one of those phone calls so it gives me a little concern. Is it true that you were served with a writ last Monday relating to this subject matter and that it was signed by 6 out of 8 of the councilors?

Sen. LAMONTAGNE: The writ was served last Friday.

Sen. DOWNING: How does that affect the support of the council for what you want to do senator.

Sen. LAMONTAGNE: Senator it seems to me that you want me to wash the linen of the city of Berlin right here in this senate and I am prepared to do it. Sit down and we'll take some time to do it. You're interfering with the city of Berlin officials. You are interfering with the mayor, the city manager and everyone on the city council.

The CHAIR: Senator Lamontagne the motion was on the rules we are getting a little afar . . .

Sen. LAMONTAGNE: Well it seems that the senator doesn't want to follow the suspension of rules so I am defending my rights.

Sen. DOWNING: Mr. President I am concerned with the suspension of the rules because of the manner with which the bill was brought in, the manner in which it was referred to committee and the manner in which the public hearing was held. Now we have had from the same area and the same senator a very questionable action taken by this senator in the past and I want to be careful that the senate is not party to such a thing again. I don't know how you best develop that type of thing, whether you do it before you suspend the rules or after—I think it is better that the senate is informed as to what it is acting on—while it requires a 2/3 vote to do something rather than a simple majority.

Sen. LAMONTAGNE: Mr. President for the benefit of the senate let me say this, last Friday there were 6 members of the city council, the mayor the city manager being served a writ by a councilman by the name of Albert Terio and the reason for this writ is because we voted against an appropriation for the municipal power commission to hire attorneys in order to

purchase public service for a utility for the city of Berlin. This has been refused during the administration of the mayor who created this problem, who could not get the appropriation in 1970, 71 and 72. He came into office, no appropriation was appropriated while he was in office. Mayor was elected and therefore was a person again tried to get an appropriation and couldn't get it. Now the administration of today Councilman Terio had asked for a \$60,000 appropriation for attorney fees. This was defeated by 6 councilmen, members of the council and the mayor so voted against any appropriation because the mayor and the members of the council, the six that I mentioned, we refused to appropriate any funds. We now have a writ that has been served and the reason for the writ—is because we do not comply with the wishes of the people who voted in the election of June 9, 1970. In 1970 on June 9th the people voted on this question, “do you vote to confirm the action of the Berlin city council taken at the regular city meeting held on June 30, 1969, by which the council passed a resolution entitled “A resolution establishing a municipal department of authority”. Never of any of these administration appropriation funds to purchase the public service, at the same time did not appropriate any money for lawyer fees. So now here we are we have this writ that has been served—how would you members of the senate like to have this happen to you if a senator would turn around and serve a writ against you because you didn't vote his way? Look at paragraph 2 that it says, he says here is a threat that is given us if no purchase agreement with public service company of New Hampshire shall be finally concerned or ratified on or before August 1, 1977. We have until August 1st to either appropriate money to do what Councilman Terio wants. Now listen to this, on 4, he says that the defendants be ordered to pay the petitioners attorney's fees and costs in connection with in an action by reason of defendants wrongful refusal to implement the offset referendum. I am asking this senate for a special election so that my people can have a referendum and let my people vote for themselves and tell this administration whether they want to continue their wishes of what they pass in 1970. Am I asking you something that is ridiculous; am I asking you for something that is fair and just. What my people vote on the issue—that is all I am asking you to do. And my gosh if I am wrong in asking you to do that I would just as soon leave this senate immediately.

Sen. DOWNING: Senator you realize that one of my concerns is that because I have been contacted and other members have been contacted by at least one member of the city council the bill be given a fair hearing that the other people of the council members be able to testify as to their feelings before a senate committee before the senate takes action on this bill. I think that is fair, reasonable and just. Anything short of that I think is unreasonable and I think should be held very suspect by this body based on your past performance.

Sen. LAMONTAGNE: Senator let me ask you a question. How would you have a public hearing here in the senate when we are in the process of interchanging bills. Answer that question.

Sen. DOWNING: Very easily senator. All of these bills were supposed to be interchanged last Thursday. We came here Friday and did Thursday's business and we came here Tuesday and we are here Wednesday doing it and if we need to we will be here tomorrow to do Thursday's business. That could have been advertised in the calendar today for hearing tomorrow and given a proper hearing and business could have been taken up then and settled then. It wouldn't have interfered with your time schedule one bit.

Sen. LAMONTAGNE: Let me ask you another question. Isn't this bill going to have to go before the house?

Sen. DOWNING: If it passes the senate.

Sen. LAMONTAGNE: If it passes the senate.

Sen. TROWBRIDGE: I fully sympathize with Senator Lamontagne but I also agree with Senator Downing that we have been trapped on a couple of these in late times and I cannot vote to suspend the rules. But I can say to Senator Lamontagne that he has a technical way out of his dilemma. That is to put an appropriation on the bill even if it is a phony appropriation, that will get us to the 19th the cross over day for bills with senate appropriation, we will have time to have the hearing and time for us to make our decision on this bill. I would hope that we would vote not to suspend the rules this time and we'll fix it up so that we have a hearing that satisfies everyone.

Sen. LAMONTAGNE: Do you believe in justice.

Sen. PROVOST: Yes I do.

Sen. LAMONTAGNE: Then you have just voted on suspension of rules and passed without even a hearing a bill just a minute ago. Where is justice.

Sen. PROVOST: I did not vote for that bill so there.

Sen. KEENEY: I don't understand how the date of the referendum that you have in the bill is September 8, 1977, how that referendum is going to help you when the date in the writ by which the city of Berlin has to take some action is August 1, 1977.

Sen. LAMONTAGNE: I am glad you asked that question senator. The September 8th election has been asked, because The city is facing an open contract by TEPCO, now known as International Generation Inc. This contract is now before the courts and the reason why this is before the courts is because it has no beginning date of a construction at the same time it has no ending date of when the construction is to be completed. So there is an open contract and this can continue forever. This has been going on ever since 1969. But now we are faced with going to court. But now having the voice of the people before that court it will give our attorney counsel which we hired, Bergeron and Hanson, a vote of the people which I feel sure the majority of the people will vote in opposition to it. The people of Berlin have been fooled for many years,. I hate to take the time of the senate but I feel that it is the right thing to do. We have a fellow by the name of John Harris from Barth Maine and John Harris has been influencing these people like Terio. John Harris is the guy who is behind this . . .

The CHAIR: This is going to far senator we are on suspension of rules . . .

Sen. LAMONTAGNE: We are on suspension of rules senator but I think these people should know the facts, the financial rating of this man John Harris who is well known and at the same time the general reputation of this man . . .

The CHAIR: Senator in order to avoid further delay we will give you one minute to explain.

Sen. LAMONTAGNE: So therefore, if we can have this vote which is a special election on September 8, 1977 this year it is going to give us the voice of the people before we go to court in October. This proposal of the special election that has the approval of the council, Bergeron and Hanson, it has the approval of the city attorney of the city of Berlin, it has the approval of six members of the city council, it has the approval of the city manager and mayor of that city. Why can't we have a special election in order to have the people express their own opinion.

Sen. SMITH: Am I right in recollecting that we suspended the rules on this bill yesterday and that the bill was referred to committee and had a hearing and what committee was that referred to?

Sen. LAMONTAGNE: Yes, yes and the committee was city legislation.

Sen. SMITH: Could you tell me who testified at that hearing.

Sen. LAMONTAGNE: I was the sponsor and the only one who testified.

Sen. SMITH: If this seems to be such a controversial bill, Senator Downing, other senators seem to have problems with it. Senator Trowbridge offered a suggestion that you put an amendment on this bill of \$10, 500 or—just a minute—bring this bill back tomorrow and then have it referred to senate finance committee where the bill could have a hearing—those bills don't have to be out of here till next Thursday. Would that be an objectionable thing to you?

Sen. LAMONTAGNE: The principle is what bothers me. And as far as I am concerned I am willing to take my chance here in justice of individual members of this senate because you have a list of people and just because of one person who made phone calls to Senator Downing and made phone calls to other senators by the name of Councilman Albert Terio who is being coerced by John Harris who is nothing else but a crook. If anybody doesn't believe it just read here that he is not. I have proof.

Sen. SMITH: This morning you had a hearing before the senate committee on cities. Was this recommendation a recommendation to bring the bill on the floor this afternoon, of the committee?

Sen. LAMONTAGNE: Yes.

Sen. SMITH: What senators are on that committee?

Sen. LAMONTAGNE: I am the Chairman, Senators, Hancock, Sanborn, Healy and Keeney.

Sen. SMITH: And they all voted to bring this onto the floor?

Sen. LAMONTAGNE: Senators Hancock, Sanborn, myself and the other two senators didn't vote.

Sen. SMITH: How many people were there to testify, just yourself?

Sen. LAMONTAGNE: Just myself.

Sen. MONIER: I am somewhat amazed at the questioning.

I have no vote one way or the other and I am not from Berlin but I want to ask a question of the chair if I may, is it usual that we have this kind of debate on suspension of the rules?

The CHAIR: Well,

Sen. MONIER: It sounds like we are arguing the bill or arguing that the bill had not to be heard or ought not to be brought out here and have a debate on the floor.

The CHAIR: The Chair will state that it is extraordinary the debate that is being held here.

Sen. MONIER: A second question then, I would like to ask that all of this be stricken from the record and that a motion put forward that there will be either suspension of the rules or not and we vote on it. I have just listened to people talking about who testified and I can name 7 bills in which only one person testified. I don't argue with Senator Lamontagne, Smith or someone else.

The CHAIR: In order to strike anything it would take unanimous consent.

Sen. MONIER: I don't care about the record I would like to have the vote on that.

Adopted.

(Senator Sanborn in the chair.)

Senator Jacobson moved that **SB 128** be taken from the table.

Division vote: 16 senators voted yea. 3 senators voted nay.

Adopted.

SB 128, to include licensed pastoral counselors in the category of services authorized under minimum mental illness coverage under major medical and non-major medical accident and health insurance.

Sen. ROCK: Thank you Mr. President. We have a long and detailed debate on SB 128. I support this bill and I would just remind the members of the senate that there have been some misunderstandings about the bill. The purpose of the bill is to reimburse clients who seek emotional help from licensed pastoral counselors. A licensed pastoral counselor is not a local clergyman who counsels parishioners; such counsel is not covered by SB 128; pastoral counselors licensed by the state

who are included in SB 128 are highly trained and go far beyond theological school to receive a graduate degree in counseling, receive supervision of their counseling with the equivalent of five full year to a three-month internship and receive their own psychotherapy. Would SB 128 result in a surge of counselors? It is very doubtful. Not many clergy would be willing to devote several additional years to difficult study for specialized training required to qualify. Are these counselors who have left the ministry? Absolutely not. Licensure requires valid and current endorsement in good standing by their denomination. Will SB 128 affect the pay scale of chaplains working for the state? In no way. Citizens receiving such emotional help presently pay both for their insurance premiums and their treatment. We could relieve this burden from the constituents by supporting SB 128. I would remind the senators that there are only 8 licensed pastoral counselors in the State of New Hampshire.

Sen. TROWBRIDGE: I am just going to rise to remind the senate that although these people are very worthy in every way, that if someone says I'm going to use my blue cross blue shield to pay for these counselors, and lets say they have a thing that costs ten dollars a week, but under long range treatment of \$520 per year and they are paying maybe \$300 per year for their total Blue Cross Blue Shield, someone else is picking up that other \$220. There is no pool or base built into the Blue Cross Blue Shield rates to pay these people and so you are going to have to admit that if you allow them to get third party payments, and they say here is my Blue Cross Blue Shield, someone is going to have to pay that additional service. And when Blue Cross comes back and says gee, we have to watch out, we have to raise our rates, all I am saying, I am warning you that is what will happen and it will be just as clear as day and I also think my estimation is that as soon as this bill is passed, you will have far more than 8 licensed pastoral counselors in this state.

Sen. JACOBSON: I rise in support of this bill and I do it for one very basic reason and that is it does afford the opportunity for the person who does have serious problems of an emotional nature to consult an alternative to a psychologist or psychiatrist. Now some question has been raised that it may be plethora of clergymen suddenly swooping in to take up this position—I think Senator Rock has answered that question. I think what we ought to look at is not the clergymen who may

be doing this but the patients who need the help. It is going to be that number that is going to affect any change in Blue Cross Blue Shield. That argument could also be posited against psychologists and psychiatrists because we may have an increase in those people moving into the state because of Blue Cross-Blue Shield, who are in fact qualified under the terms. We have to look to the questions of the people who are in need of help. If a person would prefer to have this kind of help for his emotional mental problems then he ought to be entitled to it. After all the history of this kind of effort in its more primitive forms has a long-standing history. I think as Senator Rock has pointed out it is not to go to an ordained clergy, the minister of a parish to asking whether they should get married or not to that kind of a problem; this is serious problems. These people are trained in that area in the same manner as persons trained in psychology and psychiatry. Furthermore, I think that we should be careful—If one were to make an analysis of this there are as many questions that could be raised in the area of psychology and psychiatry as could be raised for what pastoral counseling does. After all psychology and psychiatry has a very recent history. I am always intrigued by the fact that there are as many arguments over the validity of one particular psychology position as there are over theological questions. So I think we ought to look to the people who want this kind of thing rather than to what the number may be. For that reason I think we should support this legislation. I would also say that we ought to be careful—about the question of religious denomination. At the present time we have regulated marriage according to the denominations that are recognized in this state. I think we could regulate this as well so we do not get certificated persons from Hampton School of Theology in Rockford Illinois, where in six weeks you get your ThD. I think that that part could be well regulated and I support that kind of regulation too.

Sen. POULSEN: Mr. President I rise in support of this motion. We legalized pastoral counselors two years ago and while they are specialists and only apply to the needs of some people they might very well not be there to the people because of money. If they can help and see these people and maybe get the help they need from Blue Cross Blue Shield, I think it is only right that we should give them protection.

Sen. GARDNER: Senator Jacobson, not having had to go

to a psychologist or psychiatrist, do they come under Blue Cross Blue Shield?

Sen. JACOBSON: At the present time they do.

Sen. GARDNER: If someone had a pastoral counselor in preference to a psychologist why wouldn't they be entitled to the same service as the others are? You wouldn't be paying for both services—you would pay for the one of your preference.

Sen. JACOBSON: That's exactly right senator. My point is that the person who is in need of help has the alternative of going to the psychologist or the pastoral counselor if this legislation were to be adopted. What there would be would be a shift of the fee from one person to another.

Sen. GARDNER: Don't you think that a person who is very much disturbed would get far more help from a pastoral counselor than they do from a psychologist. I think that they would be more apt to tell a pastoral counselor more and therefore be able to be helped.

Sen. JACOBSON: I think there are those people who would prefer, with their emotional problems, to go to a pastoral counselor in preference to a psychologist. I have no way of judging whether they get better help or not.

Sen. TROWBRIDGE: Senator Jacobson, those people who prefer to go to a chiropractor instead of a doctor, do they get Blue Cross Blue Shield coverage?

Sen. JACOBSON: I do not believe so.

Sen. TROWBRIDGE: If they do not get coverage for something like a chiropractor or podiatrist who is less than a medical doctor, why should we in these circumstances in the mental health field, give Blue Cross Blue Shield, even though people may prefer to go there?

Sen. JACOBSON: Senator, I am not sure about the chiropractors, they may very well be. With respect to the delineation, the chiropractors and podiatrists are dealing with questions that are different from the medical profession whereas the pastoral counselor is trained to deal with the same kind of questions as the mental health persons you mentioned.

Sen. TROWBRIDGE: It is clear that if you go to a pastoral counselor and he found that you were disturbed or something and wanted to prescribe a drug, he could not prescribe a drug. Could he?

Sen. JACOBSON: I don't know the answer to that ques-

tion. I presume that is because he is not a medical person but then neither can a psychologist do that.

Sen. TROWBRIDGE: Then if a chiropractor is not allowed to do surgery, and the pastoral counselor is not allowed to do anything with drugs, which has a good deal to do with mental health, wouldn't you say that the examples are absolutely parallel—that you don't have third party payments to a chiropractor and you shouldn't have third party payments for pastoral counselors. Isn't that logical?

Sen. JACOBSON: Logic is an interesting question, for instance Peter Raymas in the 16th century said that A does not like B; B does not like C; therefore A does not like C. That's very logical but it is untrue—so that I am not so sure about logic. I think that there is an essential difference in this because the overwhelming number of people who have emotional problems are not given drugs; they are given counsel as far as I know.

Sen. POULSEN: Senator I don't have any quotes but I follow the same analogy—if I were to be treated for a heart problem, I certainly would have the advantage of a specialist as well as a regular surgeon under Blue Cross Blue Shield, would I not?

Sen. JACOBSON: You certainly would.

Sen. POULSEN: To follow that line of reasoning, if I had a mental problem why am I allowed only a psychologist or a psychiatrist when a pastoral counselor who is a specialist in a field will help me. Can you see any logic in that?

Sen. JACOBSON: I would like to turn the question around a little bit—for example, if a pastoral counselor discovered a very serious problem that needed drug medication—he would have to say I must refer you to a psychiatrist who can then give you medication in the same way that a general practitioner if he is an honest practitioner, if he discovers a problem that can only be taken care of by surgery, doesn't carry out the surgery he refers you to a surgeon.

Sen. ROCK: Senator Jacobson, following through on Senator Trowbridge's cautionary remarks that we are going to be faced with a certain increase in rates from the insurance companies, is it not a fact that now due to present circumstances, many people who have private insurance companies other than Blue Cross, are allowed third party payments when they are treated by a pastoral counselor?

Sen. JACOBSON: I believe that is a fact.

Sen. ROCK: Am I not correct senator that if you took a thousand people there would be a certain number in that thousand who for whatever reason would require counseling help that might be given by a pastoral counselor or psychiatrist or psychologist and the passing of this bill isn't going to double or triple the number of people who need help it is just going to give them another area that they might get the help so is it not possible that you're not going to increase any payment, you are just going to substitute the third-party payment route?

Sen. JACOBSON: I would presume that if we adopt this bill it is not going to increase the number of people by definition, who would seek help.

Adopted. Ordered to third reading.

Senator Bradley moved that **SB 138** be taken from the table.

Sen. BRADLEY: This bill has been debated, as I recall at the time of the vote that some of the senators were missing and it is unfortunate that I note now that some senators are still missing—just briefly this is a bill which has had four years of study which is totally permissive; it is something that my county is interested in at least looking at if the enabling legislation is put on the books. I would like to have the opportunity to allow my county to look at this alternative form of government.

Sen. BROWN: I am sure this bill has been debated well, but so many things have been happening, would you synopsise why you want this bill put on the table.

Sen. BRADLEY: I would be glad to. This is not an idea that is original with me. It has been around—it is to give counties some flexibility in the form of government which they have. There is interest in my county in at least looking at and perhaps adopting a form of government which would involve a direct election to a county counsel rather than the members of the house being the county delegation. Having a full time professional business manager to run the county. This bill simply gives the county the option to adopt that form of government. Also the option to discontinue if they didn't like it. This form of government would only be adopted in a county of one, the present county delegation at the time, voted to put the matter to referendum and then only if 60% of the people in the county voted in favor of it. The bulk of the opposition as I

remember to the bill, when it was originally debated, was well, there are other forms of government and this doesn't give enough choices. I agree that there are other choices that one might like to have but I attempted to explain at that time. I have nothing against giving other alternatives but it has taken me five years to get to this point with one alternative where there happens to be some interest. No one else talked about an interest in other forms to me. This is one in which there is an expression of interest and I would like to give the people in my own county and other people in other counties if they are interested this option.

Sen. ROCK: There was an amendment to this bill which changed from several counties down to one county? This applies to all the ten counties?

Sen. BRADLEY: Yes any county could choose it—there is only one county that I know of right now that is presently interested.

Sen. ROCK: House members would first have to relinquish their right by vote?

Sen. BRADLEY: Absolutely.

Division vote: 16 senators voted yea. 2 senators voted nay.

Adopted.

SB 138, relative to an alternative form of county government.

Motion of "ought to pass" as offered by the minority.

Adopted. Ordered to third reading.

(Senator Brown, Fennelly, recorded in opposition.)

Senator Foley moved that **SB 166** be taken from the table.

Division vote: 12 senators voted yea, 5 senators voted nay.

Adopted.

SB 166, permitting changes of party affiliation by mail and changing the time for holding sessions of supervisor of the checklist.

Motion of "ought to pass with amendment."

Amendment to **SB 166**

Amend RSA 56:37 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

56:37 Hearings on Alterations to Party Registration of Legal Voters. The supervisors shall be in session before each primary for the change of registration of legal voters as provided in RSA 56:40. The session shall be on at least 2 days. The first day shall be not less than 25 nor more than 30 days prior to such primary, and the last day shall be not less than 20 nor more than 25 days prior to such primary.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Party Registration List. Amend RSA 56:39 as amended by striking out in line 5 the word "ninety" and inserting in place thereof the following (20) so that said section as amended shall read as follows:

56:39 Party Registration. Whenever names are added to the checklist the supervisors shall register the party membership of the voter if he desires such membership registered; but if such voter has already been registered in any town or ward in this state as a member of any party he shall not be registered as a member of a different party within 20 days before any primary. The party membership of each voter may be registered by writing in ink, printing, or rubber stamping, after the name of such voter, the first 3 letters of the name of the party with which he registers.

Amend the introductory paragraph of RSA 56:40, I (a) as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

(a) Any legal voter whose party membership has been registered may change such registration by appearing in person before the supervisors of the checklist for his town or ward not less than 20 days before any primary and stating to them, under oath or affirmation, if required, that:

Amend RSA 56:40, II (a) as inserted by section 3 of the bill

by striking out same and inserting in place thereof the following:

(a) Any legal voter who has not been registered as a member of any party may register as a member of the party of his choice by appearing before the supervisors of the checklist for his town or ward not less than 20 days before any primary and stating to them, under oath or affirmation, if required, that he intends to affiliate with and generally supports the candidates of the party with which he offers to register, in which case he shall be registered as a member of such party.

Amend RSA 56:40, III as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

III. Change of Party Registration by Forms. In lieu of a personal appearance before the supervisors of the checklist as provided in paragraphs I and II, any legal voter may change his party registration by mailing or delivering a change of registration form obtained from the town or city clerk to such clerk not later than 30 days prior to any primary. The town or city clerk shall forward all change of registration forms received by him not later than 25 days prior to any primary to the supervisors of the checklist of the town or ward where the voter resides. The supervisors shall make the changes in party registration requested by the voter before the primary. If any change of registration forms are not received by the town or city clerk at least 25 days before any primary, the town or city clerk shall forward such forms to the supervisors of the checklist who shall make such changes at the next session of the supervisors.

Sen. HANCOCK: SB 166 deals only with registered voters. It allows voters to change party registration by mail on a form which has been certified by a justice of the peace or notarized by a notary public. The bill requires that the supervisors of the check list of the various communities be in session for two days. The first day not less than 25 nor more than 30 days prior to such primary and the last day not less than 20 days nor more than 25 days prior to the primary. We think that this would be a decided enhancement to the many people who are desirous of changing their party and who for a variety of reasons have not found it easy to do so in the past. I know in the

city of Concord it would be a decided help to the people who are handicapped and who find it difficult to get into the several places that Concord provides for voting purposes and for meeting purposes of the supervisors of the checklist. I ask your favorable consideration.

Senator Rock moved that **SB 166** be committed to the Senate committee on Elections.

Sen. ROCK: Mr. President, earlier today our senate president announced that there was a plethora of bills coming from the house, 35 I believe, that had to do with election changes. We have here another bill that has to do with election change that I am not particularly comfortable with. I have some grave feelings about the postcard registration type things and I think that while we have a select committee to look at this whole package of election bills, I would like to send this bill to that committee. Obviously with 35 bills before it, there has got to be one that they can amend, that is already passed, if they feel this is okay the way it is. If not, then further study from that committee will bring back to us a refinement that I think would be necessary and hopefully the senate will look to recommit. We are not killing the bill, we are not saying it is no good, we are not saying we are not going to look at it; we are going to have five senators with experience and background and many bills for them and this could be one additional bill that I would like to have for them.

Sen. HANCOCK: Senator Rock, you are aware that registration by mail under this bill would require certification by a justice of the peace or notary public?

Sen. ROCK: If you tell me that I believe you.

Sen. MONIER: I rise in support of the motion. This bill is quite extensive and rather than continue the debate that we had on the floor before if you remember, after speaking to it, I was one of us who laid it on the table on the basis that once again we are dealing with 3% of people who don't vote. Who indicated that they don't vote because lack of ease of getting to the registration. It is a very complex bill that has some serious manifestations in it which go beyond the simple fact of mail or registration by mail and go beyond the basis of opening up registration or changing a party designation. It has some consequences with respect to the fact that, and this was more or less admitted in some testimony, to the effect that we

will now have people being allowed ten days before the election, to vote or to change their registration on the basis of who they are going to vote for rather than party member or not and yet we continue to pretend that we are supporting a two-party system. I just think that is a little bit of hypocrisy. I would like to see this bill because it has some things in it of merit—go to that special committee. One of the things that we don't want to do—we have another bill on the table in 76 which I intend to make a motion to pull off and send to the committee. It was put there for that particular purpose. We did have an agreement with Mr. Conley. EDA has been very careful to try to commit them to them in time enough for them to be acted upon by the whole body of election laws materials that they have sent to us now. They all ought to be put together and come out together.

Sen. FOLEY: I rise in opposition to the motion. Most of the bills have been studied to death as far as elections go. Second, this is not a party post-card registration bill. This is for people who want to change their party registration by going before a notary public. At the present time 90 days before an election, a primary election, is the only time you can change your party registration and then only at a specific time set up that the registrar of voters in your town might decide to have it. Some of them only have it for an hour. 90 days before the March primary is right before Christmas time and nobody is thinking about elections at Christmas time. Especially when it is the 15th and 16th when they have them. Nobody even knows who the candidates are because they don't come up here in New Hampshire until long after this so how can you change your party affiliation and vote for someone you decide you like—you are already stuck by the 90 days. As far as the state primary goes, 90 days before a state primary is in June. You have weddings, graduations, all kinds of special things—you're not thinking of your elections and the candidates are not chosen till 6 weeks before an election. So you don't even know who your candidates are or your nominees. How can you make a choice and then decide this is someone I like. Everyone is not a political animal like we are—everybody isn't a democrat—there are people who honestly feel that they want to be independent and make a choice and if they vote democratic—it isn't a sin for them to look at a republican and say I think I would like him this time and want to go down and change your party affiliation and find that the 90 days is gone

and you are stuck. This bill would allow you to change it up to 20 days before an election and just last week we allowed Manchester to do it and here we are saying Manchester can but nobody else—we're all discriminated against. Manchester we voted on—Portsmouth, Laconia nobody else can do it. It's common sense, it is not striking at any special party, it is trying to get people who want to vote for a candidate, 20 days ahead of time is not going to kill anyone. It is not post-card registration, you have to be already registered to vote.

Division vote: 10 senators voted yea. 11 senators voted nay.

Motion failed.

Sen. JACOBSON: Mr. President I am disturbed by this bill because what it does is effectively erode political party. I cannot imagine a democrat wanting to transfer to the republican party suddenly 20 days before or a republican suddenly wanting to transfer to the democrat party suddenly 20 days before except for some curious purpose. That purpose would be to in some way alter the election results of the other party. If the people want to belong to a party then they ought to belong to a party. This is a party matter and if they don't belong to a party they can be taken out of the party and they can be independent. Now if we are going to have all of this shifting back and forth around, let us end the party system. Let us make it non-partisan and be done with it. It doesn't serve any purpose. I am astonished that these people who are such party stalwarts want to weaken the party. I think the time has come to say either let us have parties and let us belong to the party—there is not a single soul in New Hampshire that is required to belong to a party. Not a single soul. Now if you want to get rid of it, get rid of the parties and I'll vote for getting rid of the parties and we will have non-partisan elections. Right down the blasted line. Either that or lets have a democrat or republican party, prohibitionist party or whatever you want. So you believe in party, or you don't, or you want to play games with party go right ahead.

Sen. BOSSIE: May we presume from what you have just said that what you prefer in fact is that you want to have stumbling blocks so that people can't do what they want?

Sen. JACOBSON: There is no stumbling block to joining the party and you know it senator. I was the sponsor of the

legislation, I fought for the legislation for people to get out of the party.

Sen. BOSSIE: Isn't it true that people, and I speak of those that are unsophisticated in political life, unlike you and our colleagues, are not aware that they have only 2 weeks or 10 days in which to choose to change their party. And what you are going to continue to do is to trap people into being either Republicans or Democrats when they don't want to. What's wrong with that?

Sen. JACOBSON: There is not a single person that is trapped into joining a party.

Sen. MONIER: Senator, is not part of your argument which I accept and support 100% and said almost the same thing two weeks ago, the simple fact that if a person wants to be able to switch or wants to be able to vote for a candidate in a different party, if he is registered as an independent, he can do it on election day, not 20 days before, am I not correct?

Sen. JACOBSON: Exactly.

Sen. MONIER: Are we not in supporting this bill, saying that what we want to do is to allow a party member to play the game back and forth between parties. Is that what we are doing?

Sen. JACOBSON: The net effect of it is to emasculate the concept of the party.

Sen. MONIER: Would you agree with me that two weeks ago I said that that is hypocrisy—either we eliminate the parties or we forget this bill.

Sen. JACOBSON: I agree with you.

Sen. BRADLEY: Senator, I share to some extent your concern about the switching over for fun and games. However, you do overlook I think, the situation which I find, which I believe would be much more typical than this switching over for improper purposes. That is the person who perhaps does not feel strong about parties, and may be typically an independent, who has voted in the previous primary as a republican or democrat and who then inadvertently has done nothing else. Now as I understand it, that person is going to be in the party of whatever he voted for in the last election. I realize that if he or she knows what they are doing, they can get back to being an independent, but if they haven't and they find themselves in this position when most people begin to get interested in an election, gee I want to vote over here, why shouldn't we let that one have the freedom of choice.

Sen. JACOBSON: Well I would agree with you senator that there are those who have true conversion but I would say that the number of true conversions must be minimal and I can readily see the kind of campaign that will go on in both camps. Let me give you one illustration that happened in 1976 when a certain candidate and a certain party who went out at the 90 day period to legally get people to change their party and he changed in one county over 250 people. Now that is the thing that I fear. If there is a true conversion but there must be clearly a minimum. Now the other thing that I would be willing to support is that after the primary, after they have voted they can go up to the supervisor of the checklist, I want to go back into independent status. I'm with that. I have a real problem with this kind of action 20 days before the primary and I can document this particular case of which I speak.

Sen. BRADLEY: Is that any different from the person going out to independence now or the people who you would allow to be independent—urging those independents to sign up with this party so you can vote for me?

Sen. JACOBSON: Let me give you an example, in the State of California where they have open primaries where you can cross over very quickly, one political party and members of that party crossed over and voted for the weakest candidate on the ticket. If you want to have the freedom that Senator Bossie is talking about let us eliminate the party system and let us have non-partisan election.

Sen. BRADLEY: I don't want to do away with party but if I want to maintain a party system I want to allow the people who aren't that excited about the party they are into or if they are an independent or whatever, to allow them a reasonable freedom to get to one side or the other.

Sen. JACOBSON: Senator suppose you are the candidate for high office and you are in a tough battle for your nomination, and if you get the nomination you have a good chance of winning. But they have somebody else that they put up against you and the other party concedes that if they can defeat you in the primary, remember that it is a minority vote—less than 25%—they can get people in Hanover and Lebanon and the towns to go out and vote for your opponent by organization, 20 days before, and you are defeated. Not by republicans but by democrats going off to vote against your opponent against you.

Sen. GARDENER: Senator Jacobson, are you implying

that the 250 people who changed their party registration did so by coercion, didn't they do it by choice?

Sen. JACOBSON: I would say if you took a survey of those 250 people in this county that I speak of, most of them did because they were friendly with the candidate and he came and asked them to do it for him.

Sen. GARDENER: Then they did it by choice?

Sen. JACOBSON: Under normal procedure they would never have done it.

Sen. GARDENER: But they did it from free choice.

Sen. JACOBSON: I presume they did—I presume that you couldn't coerce anybody to change by force as they did in the 19th century.

Sen. GARDENER: Then your point isn't very valid.

Sen. JACOBSON: Is that a question or a statement.

Sen. GARDNER: It is a declaratory statement.

Sen. FOLEY: I would imagine Mr. President, that any person in this room or any where else who decided that next election they were going to run for state-wide office and they knew they were going to have an opponent in the primary for that state-wide office, the first thing they would do is if they were republican, would be to make a list of all their friends in the democratic party and say this time around, 90 days before, will you change and help me this time and then you can go back. This is a way of life. This is what you do if you are going to run for state-wide office and you're going to win a primary—you're going to ask friends of friends who are on the other side to say, will you this time help me out and change. As far as changing your party affiliation, I know of a woman who went in and voted democratic for John Kennedy in the primary in New Hampshire. She really wanted John Kennedy. Last election she was crazy for Ronald Reagan. She saw him on TV and she wanted to vote for Ronald Reagan and she went down to vote and change her party affiliation and she thought he was marvelous, 90 days was gone, she couldn't change and vote for him and she really felt that she was being cheated. She went down there, tried to get a ballot, they said no way, you didn't come down 90 days before. She thought this was a terrible system that she couldn't go down and vote for him. And when you come right down to it, everybody isn't dishonest, everybody is not trying to make a buck or get away with anything. The average person sincerely wants a candidate one side or another and they are willing to go in and

change their party affiliation when they are excited about it and learn about their candidates. This is not a partisan bill.

Sen. MONIER: Would you support an open primary?

Sen. FOLEY: No I won't, I have said it before.

Senator Blaisdell moved the previous question.

Adopted.

Division vote: 15 senators voted yea. 0 senators voted nay.

Amendment adopted.

Senator Rock moved that **SB 166** be indefinitely postponed.

Senator Bossie moved the previous question.

Adopted.

Motion failed.

Senator Bossie requested a roll call. Seconded by Senator Fennelly.

The following senators voted yea: Bradley, Blaisdell, Trowbridge, Hancock, Healy, Provost, Bossie, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Poulsen, Smith, Gardner, Bergeron, Jacobson, Saggiotes, Monier, Rock, McLaughlin, Keeney, Sanborn, Brown.

11 yeas 12 nays

Motion to order to third reading failed.

Senator Bossie moved to lay **SB 166** on the table.

Adopted.

(Senator Monier recorded in opposition.)

Senator Monier moved to take **SB 302** from the table.

Adopted.

SB 302, relative to the time for completing improvements of subdivisions for vesting rights thereafter.

Motion of ought to pass with substitute amendment.

Amendment to **SB 302**

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Exemption. Amend RSA 36:24-a (supp) as inserted by 1975, 142:1 by striking out said section and inserting in place thereof the following:

36:24-a Six Year Exemption. Every plat approved by the planning board and properly recorded in the registry of deeds shall be exempt from all subsequent changes in subdivision regulations and zoning ordinances adopted by any city or town, except those regulations and ordinances which expressly protect public health standards such as water quality and sewage treatment requirements, for a period of 6 years after the date of recording subject to each of the following conditions:

I. Active and substantial development or building shall have commenced on the site by the owner or his successor in interest in accordance with the approved plate within 12 months after the date of approval, or in accordance with the terms of said approval, and where a bond to cover the costs of roads, drains or sewers is required in connection with such approval, such bond is posted with the city or town at the time of commencement of such development.

II. Development remains in full compliance with the public health regulations and ordinances specified in this section.

III. At the time of approval and recording, the plat conforms to the subdivision regulations and zoning ordinances then in effect at the site of such plat.

2 Vesting of Rights. Amend RSA 36 by inserting after section 24-a the following new section:

36:24-b Vesting of Rights. Upon substantial completion of the improvements required under the terms of planning board approval, the owner or his successor in interest shall be deemed to have vested rights in the plan as approved and the property improvements.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. MONIER: The amendment that was offered by the committee is the same one in front of you in print with one sentence left off of it. I have at this time moved that this be the amendment offered on SB 302. I will explain that in a moment. It takes off the area about 20 years, am I right Senator Brown? It takes off the section which we had had a debate about on the floor about putting the vesting rights for 20 years and at that time there was so much debate about it that I asked

that this bill of the committee chairman be laid on the table. The amendment then without that 20 year sentence on it is now in front of you and I ask for its passage.

Sen. HANCOCK: Mr. President, members of the senate, I rise in opposition to this bill, it is I think, it is contrary to all good planning and zoning procedures. It tries to get around good zoning practices which dictate particularly in fast growing communities, it is necessary to assess the subdivision regulations and the zoning ordinance at an interval much more frequent than six years. This would and I think that all of us recognize, particularly in the southern part of the state where growth has taken place at such a rapid pace—for example in the town of Salem in the past 6 years, it has grown by 6,000 people. It is imperative that we change constantly obsolete, inadequate ordinances. I think to give developers or anybody, large or small, a six year vesting right is certainly not in conformance to orderly growth and good community practice and I ask that you defeat this bill.

Sen. BOSSIE: Mr. President, I rise in support of the amendment as proposed by Senator Monier. Frankly, I had the occasion to work with Senator Monier and Senator Brown to revise it so it would be more proper. The question that the good senator from Concord points out, is the question of whether we should increase it from a 3 to 6 year exemption. You can vote on that either way you want, I have no problem either way, frankly, but basically that is really the only change to the law as it is now. Needless to say as Senator Rock knows, I have had some experience on both sides of this particular law because in many towns and cities this has been interpreted in many ways which I don't believe are correct. So in order to set the record straight, I am going to speak to the record and I am going to submit a copy and you don't have to write it down as to the intent of at least myself and I suspect Senators Brown and Monier. In paragraph 1, basically our intent is that the substantial developments or buildings shall have commenced within 12 months after the date of approval of the plan by the planning board or in accordance with the terms of approval. The question of a bond is in accordance with current law and is an amount as determined by the local planning board. The matter of whether a bond is required or not is not within any manner to be construed as extending the 12 month period. It is further our intention, that every aspect of paragraphs 1, 2 and 3 be strictly adhered to by the courts in

interpreting the law. Also, in accordance with RSA 36-24b as is shown here, there shall be vested rights, vested rights shall be interpreted in the same manner as set forth by various decisions by the supreme court of New Hampshire heretofore decided. It is not intended to broaden or lessen the effect of those decisions. Basically that is it. The law is very clear. All this does is say if this is going to be 3 years or 6 years and vote that up or down, but I think if we are going to do it, do it with this explanation.

Amendment adopted.

Senator Hancock requested a roll call. Seconded by Senator Smith.

The following senators voted yea: Poulsen, Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Rock, McLaughlin, Provost, Brown, Bossie, Preston.

The following senators voted nay: Smith, Trowbridge, Keeney, Hancock, Fennelly, Foley.

13 yeas 6 nays

Ordered to third reading.

Senator Poulsen moved that **SB 116** be taken from the table.

Sen. POULSEN: Mr. President, I don't care if this motion passes or fails but I would like to get it eliminated one way or another from our list of bills. This is the bill that added the financial responsibility clause to the owners of mopeds wherein they would have to file for financial responsibility once they had had an accident.

Division vote: 9 senators voted yea. 10 senators voted nay.
Motion failed.

Senator Monier moved that **SB 76** be taken from the table.
Adopted.

SB 76, relative to voter registration.

Senator Monier moved to commit **SB 76** to the Senate committee on Elections.

Sen. MONIER: There is a house bill that is similar and exactly the same, the committee has already approved and brought out the registration form and we would like to have it in that committee so that we may put it with the house bill and have a package.

Sen. JACOBSON: Your intention to do with it has nothing to do with any opposition only because we already have the house bill and we need to add the voter registration and any thing else to it.

Sen. MONIER: That is correct senator, I am just doing it as a matter of courtesy for the sponsors, they had worked on it and it had been laid on the table for this purpose so that we could bring it back, it doesn't really make any difference, the amendment could be offered on the house bill but I thought this would be a courtesy for the senate members who had worked on the committee.

Adopted.

SUSPENSION OF RULES

Senator Preston moved that the rules of the senate be so far suspended as to allow all bills be placed on third reading and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

SB 209, relative to the publication of tax sale notices.

SB 234, allowing a member of the retirement system on insurance disability to continue to pay into the retirement system.

SB 202, relative to appropriations for the rehabilitation of the memorial bridge in Portsmouth.

SB 159, to implement a special state referendum with respect to state revenue sources and government costs and making an appropriation therefor.

SB 317, relative to elderly tax exemptions for residential real estate.

SB 324, requiring an annual financial statement from a per-

son, association or corporation conducting horse or dog races and meets.

SB 350, authorizing games of chance at agricultural fairs and nonprofit fundraising activities and permitting local officials to receive reports of beano games.

HB 109, relative to official state songs.

SB 369, authorizing the town of Littleton to exceed its bonded indebtedness to cover present indebtedness of the Littleton water and light departments.

SB 128, to include licensed pastoral counselors in the category of services authorized under minimum mental illness coverage under major medical and nonmajor medical accident and health insurance.

SB 138, relative to an alternative form of county government.

SB 302, relative to the time for completing improvements of subdivisions for vesting rights thereafter.

Recess until Thursday, May 12 at 1:00 p.m.

(Senate President in the chair.)

Out of Recess.

HOUSE MESSAGES
HOUSE REQUESTS CONCURRENCE
INTRODUCTION OF HJR NO. 4
First and Second Reading and Referral

HJR 4 for the purpose of requesting appropriate action by the Congress, acting by consent of 2/3 of both Houses to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

HOUSE REQUESTS CONCURRENCE
INTRODUCTION OF HOUSE BILLS
First and Second Reading and Referral

HB 1047, relative to overtime pay for employees of nursing homes. To Public Institutions.

HB 1083, relative to time-of-day electric utility rates. To Energy.

HB 858, correcting errors, omissions and inconsistencies in

the RSA and session laws and conforming existing law to the criminal code. To Judiciary.

HB 1035, modifying the criminal classification of operating a motor vehicle under the influence of alcohol or controlled drugs. To Judiciary.

HB 726, relative to local approval for the development of any public airport. To Executive Departments.

HB 229, amending certain provisions of the statutes relative to OHRVs. To Transportation.

ENROLLED BILLS AMENDMENT

HB 68, relating to administrative functions of the fish and game department in declaring the opening and closing of seasons relative to fur-bearing animals. Senator Lamontagne for the committee.

Enrolled Amendment to HB 68

Amend the bill by striking out sections 1 and 3 and inserting in place thereof the following:

1 Definition. Amend RSA 207:1, VIII as amended by 1977, 67:2 by striking out said paragraph and inserting in place thereof the following:

VIII. Fur-Bearing Animals: Beaver, otter, marten, sable, mink, fisher or fisher cat, raccoon, bobcat, fox, weasel, skunk and muskrat.

3 Director, Fish and Game Commission; Powers and Duties. Amend RSA 206:10 (supp) as amended by striking out said section and inserting in place thereof the following:

206:10 Powers and Duties.

I. It shall be the duty of the director to protect, propagate and preserve the fish, game, bird and wild life resources of the state and to protect and conserve the non-game birds of the state. He shall, subject to the limitations hereinafter set forth, have the power and authority to make and enforce rules and regulations to make adequate and effective the control, management, restoration, conservation and regulation of the fish, game, bird and wild life resources of the state. Such power and authority shall include the right to open and close the

season for taking fish, the right to fix the size, number and weight limits for fish, and other conditions governing the method and manner of taking the same. Such power and authority may be exercised with reference to the state as a whole, or for any specified county or part thereof, or for any lake, pond, stream or part thereof.

II. Such power and authority shall not extend to the regulation of the seasons for the taking of game, birds or other wild life or the bag limit of the same, except as provided in RSA 210:23. All rules promulgated by the director shall be promulgated in accord with RSA 541-A. The authority of the director as specified in this paragraph shall be reviewed by the fish and game commission during fiscal year 1979 and such authority shall continue only until December 31, 1979.

Sen. LAMONTAGNE: The amendment in section one of the bill numbers a paragraph to conform to the changes made by HB 186 passed earlier in this session. The amendment to section 3 is necessary to clarify an amendment to the bill to state that the director is given temporary powers to the closing of the seasons relative to fur-bearing animals and the bill does not affect the seasons for other game, birds or wildlife. The amendment included reference to the season for taking fish in the wrong paragraph and this amendment corrects the mistake.

Adopted.

INTRODUCTION OF SENATE RESOLUTION NO. 5

SENATE RESOLUTION NO. 5

requesting an opinion of the justices on Senate Bill 75.

Whereas, there is pending in the Senate, Senate Bill No. 75 "An Act imposing certain limitations on oil suppliers doing business in the state"; and

Whereas, doubt has been expressed as to the constitutionality of the provisions of said bill; now, therefore, be it

Resolved by the Senate:

That the justices of the supreme court be respectfully requested to give their opinion on the following important questions of law:

1. Can the General Court within the provisions of the constitution of New Hampshire enact a statute as proposed in Senate Bill Number 75 as a method to limit unfair trade practices within the state?

2. Would any provision of the Constitution of the United States or of this state be violated by the provision of the bill that prohibits a supplier of petroleum and petroleum products, who is also, by itself or through affiliates or both, engaged in the refining or manufacturing of such products from operating, directly or indirectly, a retail outlet in this state which sells gasoline to the motoring public?

Further resolve that the clerk of the Senate be instructed to transmit to the clerk of the Supreme Court six copies of this resolution and six copies of Senate Bill Number 75.

Senator Rock moved that SR No. 5 pass.

Adopted.

Senator Sanborn moved that **SB 314** be taken from the table.

Division vote: 16 senators voted yea. 3 senators voted nay.

Adopted.

SB 314, permitting the assembly and voluntary participation of public school pupils in the free exercise of religion during a 5 minute period before the start of the official school day.

SB 314, is on a second reading and open to amendment.

Senator Bossie moved that **SB 314** be referred to the Supreme Court for an advisory opinion with regards to its constitutionality.

Sen. BOSSIE: Mr. President, I appreciate the concern of the senators who submitted this bill but as we know in the past several years the United States Supreme Court has ruled on this particular subject and this is a variation of it. There is doubt in my mind as to whether the bill is constitutional, so I think it will be proper at this time, as we have last week with another bill concerning oil deals, the only way to do it with a bill like this is to send it to the supreme court and see if it is constitutional and if it is fine, let us vote for or against it.

Sen. SANBORN: Mr. President, I rise in opposition to the motion of Senator Bossie for the following reasons. I am one of the sponsors of this bill and I sponsored this bill for a group

of lawyers who believe that they had at last found the proper vehicle to allow prayer into school that is not contrary to the rulings of the United States Supreme Court since I have worked for this principle in the past during the last session and again in this session, I don't believe that this has any need to send this out to the supreme court for the State of New Hampshire when already the law and the lawyers agree that this is a legal way to allow prayer in the schools as the bill states in this title. This prayer is for before school opens in the morning and it is strictly volunteer. I see no sense in it.

Sen. BOSSIE: Senator if you are sincere about the constitutionality of it why do you hesitate to allow us to send it to the supreme court for determination. You realize lawyers are fallible.

Sen. SANBORN: As I said before I don't see any actual sense to do it. The only thing that this will prove is that two lawyers can't agree on something.

Sen. SMITH: Senator Sanborn, in the passage of this bill would you be using the school facilities for this prayer?

Sen. SANBORN: Yes.

Sen. SMITH: Is this not, could this not be interpreted as being in opposition to our long standing concept of separation of church and state?

Sen. SANBORN: I don't see where that has anything to do with it.

Sen. SMITH: Do you think that a third grader or fourth grader, if the majority of the kids participated in this, would feel ostracized by being a person who was kept away from this type of prayer?

Sen. SANBORN: No I don't think the child would have that much of a problem.

Sen. SMITH: Do you think senator that with the teachers that we have in the schools today, that some of whom are non-christians, that these teachers would be suitable types of people to be leading the prayers in our schools?

Sen. SANBORN: I don't see where it specifies in the bill that the teachers are leaders.

Sen.. HANCOCK: Has there been any great demand for this?

Sen. SANBORN: I believe that when the bill was passed in the last session that there were several school districts that indicated their willingness to go along with the bill on the last

session. I do believe that there are people who would like to see it at that area.

Sen. HANCOCK: Have you been personally requested to support this type of legislation?

Sen. SANBORN: I have in the past and I feel that I still am.

Sen. BROWN: Senator Sanborn, isn't there a bill similar to this, gone to the supreme court in the past?

Sen. SANBORN: I can't say that there is one that is similar but I know that there was one in the last session was not like this in effect.

Sen. BROWN: Would you believe that there was one that went before the supreme court that stated that they would say the Lord's Prayer, and because it said a specific prayer, that is why the supreme court struck it down. Do you recall?

Sen. SANBORN: I do recall that there was one as you mentioned.

Sen. BROWN: Does this bill in any way state that they have to say a specific prayer?

Sen. SANBORN: No it does not.

Sen. SMITH: The last bill as I recall said to say the traditional Lord's Prayer.

Sen. SANBORN: That is correct.

Sen. SMITH: Have you been able to determine yet what the traditional Lord's Prayer is.

Sen. SANBORN: I believe it went a little bit further senator, relative to a certain edition of the bible—I can't remember, King James I believe it was.

Sen. SMITH: Would you believe senator that the church that I go to, we don't use the King James version?

Sen. SANBORN: I don't believe this bill requires any particular version of the bible.

Sen. SMITH: As I understand it, you don't know exactly who is going to lead the prayer group in this school?

Sen. SANBORN: Yes.

Sen. SMITH: What happens if a Buddhist is hired?

Sen. SANBORN: We will have a buddhist service.

Sen. MONIER: Quite frankly I have serious reserves about this. I have heard us talk time and again in the senate about this—separation of the legislature, judicial and executive branch. I will admit that those of the most elegant ones are always carping about the executive branch but I would like to use the same kind of terminology that we have used before with it. It is the legislature's responsibility to pass laws. It is

the judiciary's responsibility to act upon those laws in a constitutional fashion. There is no question in my mind that the premise for this bill is to attempt to restore some sort of values with respect to prayer in public schools. There have been bills enacted before for the express purpose of this, they have gone through the normal judicial process, which is what that branch of government is for, and they have been stricken down. This is another attempt and rewritten again by Legislative Services at the request of some of the senators, to try to put this situation back in front of the courts again in a proper way so that there is a public response to it and that they are performing their functions. Our responsibility is that if we feel that these kinds of matters should be restored even though the judicial branch has previously acted in their full constitutional rights have stricken down certain things then that is our prerogative. I don't need the judicial branch to advise me of it. Their job is to handle it after it has become law.

Sen. BOSSIE: Senator it is very interesting to hear your statements here in the chamber today. Where were you the other day when Senator Rock made his motion to send his oil company bill to the supreme court. I didn't hear you talking and arguing about separation of powers then.

Sen. MONIER: I think there is a big difference between that and a basic value or philosophical consideration that has been before the supreme court several times already.

Sen. BOSSIE: Then your argument is then that you, and I guess you similar to Governor Thomson, think that all the things he thinks are unconstitutional you think are constitutional. That just isn't right is it?

Sen. MONIER: Not in the least. Are you trying to imply senator that if we pass this bill it would not go for judicial process?

Sen. BOSSIE: Yes.

Sen. MONIER: And if it can go for judicial process, is that what the judiciary would do?

Sen. BOSSIE: Let me put it in its practical application. If this were deemed constitutional I would have no problem voting for the bill. I have great doubts, and why don't you have doubts, and why don't you consent to send it over there as we have with other bills—it is not an attempt to kill the bill, why are you so reluctant and determined not to send it?

Sen. MONIER: Senator that is not a question, but I will answer it. The Supreme Court of the United States and state

courts as well, have already tried to decide some questions about prayer. The express purpose of this bill is to try and find a way in which prayer can be done that the courts can live with. I think therefore in this particular case and in all cases of this type, that the court has its prerogatives and rights and those rights are that once we have enacted law, they can pass on the constitutionality of it. We're not denying them that at all.

Sen. SMITH: Haven't we historically in this state had a system whereby the legislature can ask advisory opinions?

Sen. MONIER: That's rather obvious—yes.

Sen. SMITH: Why then wouldn't it be more prudent to send the bill to the supreme court, get their opinion as to its constitutionality, rather than having people throughout the state have to go to the supreme court after the fact, have schools have school meetings, debate this question when we at this moment could do it and save a lot of time, a lot of effort, by having an opinion beforehand. Couldn't we also save a lot of money, go on to the house, have it printed into the law books and find it too, is unconstitutional.

Sen. MONIER: My answer is very simple. For one thing if the supreme court rules upon this bill Senator Smith, then they would once again be setting a precedence by law after we passed it. If we ask for an advisory consent, then once again the possibility of having this type of voluntary nature has not been decided by the courts nor by us.

Sen. TROWBRIDGE: Senator Smith, isn't one of the first things we do when we get elected, are we not subjected to an oath of office?

Sen. SMITH: True.

Sen. TROWBRIDGE: Doesn't that oath of office say that we will uphold the constitution of the United States and the state of New Hampshire?

Sen. SMITH: True.

Sen. TROWBRIDGE: Isn't it therefore improper for a senator to vote on something where grave constitutional questions have been raised as to its constitutionality without breaking the oath?

Sen. SMITH: Yes.

Senator Bergeron moved the previous question.

Adopted.

Senator Bossie requested a roll call. Seconded by Senator Saggiotes.

The following senators voted yea: Smith, Bradley, Blaisdell, Trowbridge, Hancock, Bossie, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Keeney, Healy, Sanborn, Provost, Brown.

10 yeas 13 nays

Motion failed.

Motion of ordering **SB 314** to third reading.

Senator Monier requested a roll call. Seconded by Senator Saggiotes.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Saggiotes, Monier, Rock, McLaughlin, Keeney, Healy, Sanborn, Provost, Brown, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Smith, Blaisdell, Trowbridge, Hancock, Bossie.

16 yeas 5 nays

Adopted. Ordered to third reading.

(Senator Bradley recorded in opposition.)

Senator Bossie moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until 1:00 p.m. on Tuesday, May 10.

Senator Downing moved the previous question.

Adopted.

Motion failed.

Senatr Monier moved to remove CACR 23 from the table.
Adopted.

CACR 23, RELATING TO: A Citizens' Referendum on any General Sales or Income Tax: PROVIDING THAT: Sales and Income Taxes May Not Take Effect Until After Approval by a majority of the Qualified Voters of the State Present and Voting on the Subject.

Question of ordering CACR 23 to third reading.

Senator Rock moved the previous question.
Adopted.

Senator Monier requested a roll call. Seconded by Senator Provost.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Bossie, Downing, Preston.

The following senators voted nay: Smith, Bradley, Blaisdell, Trowbridge, Keeney, Hancock, Foley.

15 yeas 7 nays

Adopted. Ordered to third reading.
Senator Rock moved to take **SB 340** from the table.
Adopted.

SB 340, relative to the state motto on motor vehicle number plates.

SB 340, is on second reading and open to amendment.
Senator Trowbridge moved the previous question.
Adopted.

Senator Rock requested a roll call. Seconded by Senator Sanborn.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Downing.

The following senators voted nay: Smith, Bradley, Berge-

ron, Jacobson, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Preston, Foley.

12 yeas 12 nays

Motion failed.

Senator Bossie moved that **SB 340** be laid on the table.

Adopted.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, except CACR 13 and 23, and that they be passed at the present time; and that when we adjourn, we adjourn until 1:00 p.m. Tuesday, May 10.

Adopted.

Late Session Third Reading and Final Passage

SB 314, permitting the assembly and voluntary participation of public school pupils in the free exercise of religion during a 5 minute period before the start of the official school day.

Adopted.

CACR 13 RELATING TO: Legislative Districts. PROVIDING THAT: A Town, Ward, or Place may be Referendum Request that the Legislature Divide it into Two or More Representative or Senatorial Districts.

Division vote: 21 senators voted yea. 0 senators voted nay.

Adopted.

CACR 23 RELATING TO: A Citizens' Referendum on any General Sales or Income Tax: PROVIDING THAT: Sales and Income Taxes May Not Take Effect Until After Approval by a majority of the Qualified Voters of the State Present and Voting on the Subject.

Senator Sanborn requested a roll call. Seconded by Senator Saggiotes.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Bossie, Fennelly, Downing, Preston.

The following senators voted nay: Smith, Bradley, Blaisdell, Trowbridge, Keeney, Hancock.

16 yeas 6 nays

Adopted.

Senator Rock moved to adjourn until Tuesday, May 10.
Adopted.

Tuesday, May 10

The Senate met at 11:00 a.m.
A quorum was present.

Senator Bradley moved reconsideration on **SB 207**.
Adopted.

SB 207, relative to foreclosure sales.

Senator Bradley moved that **SB 207** be placed on **second** reading and open to amendment at the present time.
Adopted.

Senator Bradley moved an amendment to **SB 207**.

Amendment to **SB 207**

Amend PSA 479:25, II as inserted by section I of the bill by striking out same and inserting in place thereof the following:

II. A copy of said notice shall be served upon the mortgagor or sent by registered mail to his last known address or to such person as may be agreed upon in the mortgage at least 21 days before the sale. The term "mortgagor" shall include the mortgagor, a grantee of the mortgagor or the then-owner of the mortgaged premises and any person claiming a lien or

other encumbrance upon the premises. Such persons other than the original mortgagor shall be entitled to such notice if the interest of such person is of record with the office of the register of deeds or the register of probate for the county in which said premises are located at least 30 days prior to the date of sale. Notice of sale shall be sufficient if it shall fully inform the mortgagor of the mortgage for the breach of which the foreclosure is to be held, the date, time, and place of sale, the town, county, street or highway and street number, if any, of the mortgaged premises, the volume and page of the recording of the mortgage, the location where the original mortgage instrument may be examined by any interested person, and the terms of the sale. Notice of the sale shall include the following language:

“You are hereby notified that you have the right to petition the superior court for the county in which the mortgaged premises are situated within 20 days after receipt of this notice, with service upon the mortgagee, and upon such bond as the court may require, to enjoin the scheduled foreclosure sale.”

Failure to institute such petition shall thereafter bar any action or right of action of the mortgagor.

Sen. BRADLEY: Mr. President this is a bill that we passed back about a week or so ago, revising the foreclosure procedures. It seems to be a non-controversial bill. We left out a sentence and it is a somewhat substantive sentence and it is something I don't think we could take care of under enrolled bills or something like that. We felt we ought to get it right. The fellow that was the principle draftsman called it to the attention of Senator Monier. The line that was left out was actually the last sentence of this amendment that I will propose when this is reconsidered.

Sen. MONIER: I would strongly suggest that we support this motion.

Amendment adopted. Ordered to third reading.

Senator Preston served reconsideration on HB 109, relative to official state songs.

Senator Downing moved that the Senate now adjourn **from**

the early session, that the business of the late session **be in** order at the present time, and that when we adjourn, **we adjourn** until Wednesday, May 11 at 12:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

SB 207, relative to foreclosure sales.

Adopted.

Senator Smith moved to adjourn until Wednesday, **May 11**.

Adopted.

Wednesday, May 11

The Senate met at 12:00 p.m.

A quorum was present.

Senator Downing moved that the Senate now adjourn **from** the early session, that the business of the late session **be in** order at the present time, and that when we adjourn, **we adjourn** until Thursday, May 12 at 1:00 p.m.

Adopted.

Late Session

Senator Healy moved to adjourn until Thursday, **May 12**.

Adopted.

Thursday, May 12

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent **Fischer**,
Senate Chaplain.

Lord, we are tired with the rapid pace of the past few **days**.
We hope that we may receive some kind of insight to **avoid**

the last minute rush in the future which often does not **give us** time to truly understand the bills neither to do justice to **them** or for the people whom we represent.

Refresh us this day so to carry on as we look forward **with** thy help, to better days to come.

Bless us Lord.

Amen

Senator Bradley led the Pledge of Allegiance.

COMMITTEE REPORTS

HB 320, relative to secured loaning authority of **coopera-** tive, banks, building and loan associations and **savings and** loan associations. Ought to pass. Senator Rock for the **com-** mittee.

Sen. ROCK: This is a bill Mr. President, that we might say reflects the changing times in the situation in which we live today. Everything is getting a little more expensive and I guess this is a result of the inflation. Banks previously on collateral loans, the cooperative banks and savings and loans association, were allowed to lend only up to \$5,000 on collateral loans. This bill allows them to increase that to \$10,000. Presently they are limited to the number of years that they can lend on a collateral basis to 5 years. This extends the period to 7 years. So as of today you can borrow \$5,000 at a cooperative bank on a collateral loan for five years if this legislation passes and you have the good credit that Senator Poulsen has you can borrow \$10,000 for 7 years.

Sen. BRADLEY: The collateral loan is one in which you typically would be buying a car and put the car up for collateral?

Sen. ROCK: Cars, boats, mobile homes etc.

Adopted. Ordered to third reading.

HB 321, relative to applications for mortgage loans **from** cooperative banks, building and loan associations and **savings** and loan associations. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President this is another step in the

upgrading for the savings and loans, the coop banks. As to what it does—now when an application is submitted, directors have to handle it. This simply entails appraisers to be used. The appraiser is one who would have to be approved by the board of directors so the directors are still ultimately responsible for the appraisal work when the work is done.

Adopted. Ordered to third reading.

HB 322, relative to the unsecured loaning authority of cooperative banks building and loan associations and **savings** and loan associations. Ought to pass. Senator Bergeron for the committee.

Sen. BERGERON: Mr. President this is just another bill to make Andy's bank a little bit richer. This allows cooperative banks to loan up to the full value of property that was taken in legal action. This is already done with real estate. This will allow them to do the same for personal property. It will enable them to dispose of property that they may come into the possession of a little more readily.

Sen. BRADLEY: We just had one relative to secured loaning authority now we have one that looks like its parallel to unsecured loaning authority but your explanation didn't sound anything like Senator Rock's explanation. Are we increasing the amount that may be loaned?

Sen. BERGERON: Yes we are.

Sen. BRADLEY: Then we are increasing the time?

Sen. BERGERON: It has nothing to do with time just the amount—the full value of the merchandise.

Sen. BRADLEY: Isn't this a bill dealing with unsecured loaning authority?

Sen. BERGERON: This is a bill that would allow cooperative banks to loan up to the full value of the merchandise taken in a legal action. For instance you buy a plane but you can't really afford to buy a plane. The bank repossesses the plane and they can resell it for the full value of the property as opposed to now which is just what the bank has into it.

Adopted. Ordered to third reading.

HB 347, relative to the maximum time period for the **amor-**

tization of loans. Ought to pass. Senator Rock for the committee.

Sen. ROCK: Mr. President, members of the senate, it may sound a little bit like a broken record but I am going to do the same thing again. This time I am going to do it for mortgage loans. This changes the term of a mortgage loan. The maximum currently is 30 years. This increases that to 40 years. The maximum time that a mortgage loan could be written now would be 40 years. The reason is that there are many young professional people, dentists, doctors and lawyers—the bank knows that their income is going to be increasing and it allows them to mortgage at the outset. They might remortgage later but it keeps their payments at the beginning a little lower. It also allows a person who already owns a house and wants to buy a second house, a vacation property, and they can use the first house as equity and stretch the payments on the second over this period of time. I asked at the hearing why they didn't bring both of these in together and the reason is that they are written in different chapters of the statutes and that is why they had to be dealt with separately. The issue is the same.

Sen. BRADLEY: Is everyone in favor of this, banking commissioner, banks?

Sen. ROCK: There was no opposition to the bill.

Sen. BRADLEY: And there is no worry that this is too excessive a period?

Sen. ROCK: Well, I can only use the example of my daughter recently married last year and she and her husband wanted to own a house and the cost of land and real estate today is making it almost impossible in a 20, 25 or even a 30 year period—they just can't to own that house.

Sen. BRADLEY: I am sympathetic to that and I have a 30 year mortgage on my house which I took out in my younger days and I figured out the other day if we keep going at the rate of 6% inflation, that by the time I pay off the last payment, that payment which is upwards \$200/month will be worth in 1966 dollars when I took out the mortgage, only about \$19. It seems to me that that is tough for the bank and nice for me. The reason we have any time period at all is so you don't—it really is to protect the banks. . .

Sen. ROCK: To protect the borrower as well. I am sure there would be people if the limit were 60 years would go in

never intending to pay it off and pay very small amounts. So it protects the banks as well.

Sen. BRADLEY: Are there any other states that have 40 years allowed?

Sen. ROCK: Yes.

Sen. POULSEN: I speak in support of this bill and add one thing to the testimony that Senator Rock gave which is on a sliding scale loan, the extra time is often of value to the buyer in that his payments can be extended into the added 10 year period.

Adopted. Ordered to third reading.

HB 394, relative to the use of funds of credit unions. **Ought** to pass. Senator Poulsen for the committee.

Sen. POULSEN: This bill has to do with credit unions and it gives them one other place to deposit or invest their money and that is what they call corporate centrals. It is apparently an organization among the credit unions. They are limited in the amount that they can deposit in any one corporate central to the amount of insurance which again is not FDIC but one that they have of their own whose name escapes me right now. It is similar to FDIC and their insurance limit is only \$40,000 so they can only deposit up to that amount in any corporate central.

Adopted. Ordered to third reading.

HB 395, relative to retirement accounts for credit **unions**. **Ought** to pass. Senator Preston for the committee.

Sen. PRESTON: If this bill is passed it would allow state-charted credit unions to have retirement accounts which are now enjoyed by the federal credit unions throughout the country.

Adopted. Ordered to third reading.

SB 121, providing for the defense and indemnification of state officers and employees against certain claims. **Ought** to pass with amendment. Senator Trowbridge for the **committee**.

Amendment to SB 121

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 99-C the following new chapter:

CHAPTER 99-D**Defense and Indemnification of State Officers and Employees**

99-D:1 Statement of Policy. It is the intent of this chapter to protect state officers, trustees, officials and employees who are subject to claims and civil actions arising from acts committed within the scope of their official duty while in the course of their employment for the state. It is not intended to create a new remedy for injured persons, to waive the state's sovereign immunity, or to waive the sovereign immunity of the state which is extended by law to state officers, trustees, officials and employees. The doctrine of sovereign immunity of the state, except as otherwise provided by statute, is hereby adopted as the law of the state.

99-D:2 Defense and Indemnification. If any claim is made or any civil action is commenced against a present or former officer, trustee, official or employee of the state or any agency thereof, including any justice of the district, municipal, superior or supreme court, or the clerks thereof, claiming damages for the negligent or wrongful acts and said officer, trustee, official or employee requests the state to provide representation for him, and the attorney general determines that the acts complained of were committed by said officer, trustee, official or employee while acting within the scope of official duty and that said acts were not wanton or reckless, the attorney general shall represent and defend such person with respect to such claim or throughout such action, or shall retain outside counsel so to represent or defend such person, and the state shall defray all costs of such representation or defense, to be paid from funds not otherwise appropriated. In such case the state also shall protect, indemnify and hold harmless such person from any costs, damages, awards, judgments or settlements arising from said claim or suit. The attorney general shall not be required to consider the request of such person that representation be provided for him unless

within 7 calendar days of the time such person is served with any summons, complaint, process, notice, demand or pleading he shall deliver the original or a copy thereof to the attorney general. No property either real or personal of the state of New Hampshire shall be subject to attachment or execution to secure payment of or to satisfy any obligations of the state created under this chapter. Upon entry of final judgment in any action brought under this chapter the attorney general shall present said judgment to the general court for the requisite appropriation. The attorney general, or outside counsel retained under this chapter, shall have the authority to settle any claim brought under this chapter by compromise and the attorney general shall present said settlement to the general court for the requisite appropriation.

99-D:3 Insurance. The state, or any department or agency thereof, shall self-insure against all such damages, losses and expenses except to the extent that insurance coverage is obtained under the authority of RSA 412:3. The fiscal committee of the general court shall study alternative means to self-insurance by the state and shall report its findings to the general court convened in the following legislative session or special session, whichever shall convene first. The fiscal committee shall be free to seek the assistance of the insurance department, the attorney general's office, and any other resource individuals.

99-D:4 Evidence. Any determination by the attorney general pursuant to RSA 99-D:2 shall not be admissible as evidence in the trial of any such action or claim.

99-D:5 Counsel. Nothing contained in this chapter shall be construed to deprive any such person of his right to select and be represented by private counsel of his own choice at his own expense.

99-D:6 Defenses not Waived. Nothing contained in this chapter, shall be construed or held to constitute a waiver of any defense, including that of sovereign immunity, otherwise available against the claim.

99-D:7 Appeal. Appeal from denial of representation by the attorney general as provided in RSA 99-D:2, shall be available to any officer, trustee, official or employee who is so denied. Such appeal shall be by petition to the governor and council.

Sen. TROWBRIDGE: On page 12 you will find the amendment. This is the companion piece to SB 4 which is the court

of claims and the companion piece to the statement of policy about sovereign immunity. As you know now several officers of the state are indemnified if they are sued in the course of doing their duty. However the attorney general came in and sponsored this bill saying that it is important under this litigious area that we are in that we make sure we indemnify our state employees when they are acting in legitimate course of their duty. That was the original bill. We then added to it on the amendment on page 12 the statement of policy so that there would be no question that the supreme court of the state of New Hampshire would know exactly what we were doing. It says it is not intended to create a new remedy for injured persons, to waive sovereign immunity or to waive the sovereign immunity of the state which is extended by law to the state officers. The doctrine of sovereign immunity of the state except as otherwise provided by statute hereby adopted as the law of the state. We are making plain statements here but we are making the exception that when one of our employees gets sued he will be defended by the attorney general's office; that he will not be subject to legal fees of his own. The only other part of the bill shows that the attorney general is the one who makes the decision as to whether he should defend the person or not. Let us say that someone sues the highway commission for his acts of running off the road and running into someone when he wasn't even on state duty. Well obviously then he is on his own. He should not be defended by the state. The attorney general has to make the original determination that the person was acting on state business before he takes up the defense. So we have that kind of built in safe guard that we are not defending every state employee on his own private suits. Also if the attorney general says no you were not doing state business, there is on the last page on page 14 a place where he can appeal to the governor and council in case he thinks he is being wrongly dealt with by the attorney general. So there is a safeguard there for the employee. There is no question that this bill has to be done and it is consistent with the sovereign immunity statutes that we are doing and we are really tying it up in a nice piece of string and getting it squared away.

Amendment adopted. Ordered to third reading.

SB 287, amending the state operating budget and making an

appropriation therefor. Ought to pass with amendment.
Senator Trowbridge for the committee.

Amendment to SB 287

Amend 1975, 505:1.02, 21, 04 as amended by section 4 of the bill by striking out all after the line General Fund

280,897	234,151
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and inserting in place thereof the following:

Total	\$281,930	\$235,184
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Amend 1975, 505:1.02, 21, 06 as amended by section 5 of the bill by striking out the line "21 Material for manufacturing*

90,000	119,000"
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and inserting in place thereof the following:

21 Materials for Manufacturing*	90,000	117,000
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Further amend 1975, 505:1.02, 21, 06 as amended by section 5 of the bill by striking out all after the line 80 out-of-state travel 100 100 and inserting in place thereof the following:

90 Inmate wages A	9,110	17,910
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Total	\$211,890	\$249,459
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Estimated source of funds

for prison industries:

09 Prison industries income	\$211,890	\$263,459
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General fund	-0-	(14,000)
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Total	\$211,890	\$249,459
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*The funds in this appropriation shall not be transferred or expended for any other purpose and no portion of this appropriation shall be used to purchase materials for license plates other than required to provide for the replacement of damaged or lost plates or to purchase additional plates for the 1975 issue.

Amend the bill by striking out section 6 and renumbering sections 7 and 8 to read as:
6 and 7 respectively.

Sen. TROWBRIDGE: This is the prison bill. As usual the prisons are out of money and what has happened in this bill is that the prison has come in, they are out of food money, they are out of a lot of money they then have transferred a good deal out of the materials for manufacturing and equipment and have moved it into current expense in order to take up the slack. However, there is still missing some 19,000 even with the transfers that they have done to marshall whatever is left in their budget to best advantage to meet the problem. The real problem is the food- fuel and everything that the prison needs, and we keep not giving them what they ask for and they say we are going to run out and then they do. The other problem I thought we had is that we were in conflict with the Emergency Budget control act that we put the orders out in December, the Governor's director consented to by the legislature. I found out that about \$101,000 was involved in that directive but \$98,900 had been restored already by the governor so that there is really not too much alternative for this bill.

Sen. SANBORN: Isn't it true that one of the reasons that they need this \$19,000 is because \$5 or \$6,000 is needed urgently for fertilizer and seed to be used to plant the gardens and so forth that are going to provide food for many institutions not just the prison?

Sen. TROWBRIDGE: Right.

Sen. BROWN: Isn't some of this problem caused and I don't like to use the word, but by inefficiency and by the food steward being out sick for three months?

Sen. TROWBRIDGE: One of the things that I heard after that was that even if the other steward had been there the cost of food went up on them sufficiently, the old contracts ran out and they had to renegotiate and after they renegotiated the contracts the prices went up. Taken all together, when they are that close on the amount of money they have anything that goes wrong, they are pretty well helpless.

Amendment adopted. Ordered to third reading.

SB 343, making an appropriation for the American and

Canadian French cultural exchange commission. **Ought to pass.** Senator Provost for the committee.

Sen. PROVOST: I sponsored this bill requested by the American and Canadian French cultural exchange commission. The bill makes an appropriation of \$10,000 to the commission so that they can carry their work whenever necessary to intervene between the United States and the Canadian government. In 1973 a Quebec delegation came down here to meet with the cultural commission and various state department heads of New Hampshire particularly the motor vehicle department to solve the problem that had arisen in the north country near the Canadian border on trucking. I guess you could call this a public relation bill. I hope the senate will go along with this bill.

Adopted. Ordered to third reading.

SB 345, making a supplemental appropriation to nurse's registration board. **Ought to pass.** Senator Smith for the committee.

Sen. SMITH: This bill increases the appropriation for the nurses's registration board and allows them to take that money which they already have out of their fund. It is not an additional appropriation. We had a similar bill last session and the reason that we are doing it this year we had a problem with a footnote that was in the regular budget.

Adopted. Ordered to third reading.

SB 206, relative to the salary of an unclassified employee as it relates to the salary of a subordinate classified or unclassified employee. **Ought to pass.** Senator Smith for the committee.

Sen. SMITH: What this bill does is to make it possible for governor and council to raise the salary of an unclassified employee to no more than a \$1,000 above another unclassified employee who is the subordinate of the senior unclassified employee. The present law allows the governor and council to do the same thing if the subordinate employee is classified. This makes it possible when it is unclassified as well as

classified. I hope the senate will go along with the report of the committee.

Adopted. Ordered to third reading.

SB 304, establishing the position of senior adult recreation program specialist and making an appropriation therefor. Inexpedient to legislate. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: In the recreation field, the elderly would like to get a senior adult recreation program specialist. One person who would investigate and identify recreational needs, distribute recreational resource material, recruit and retrain local leaders and various things in the recreational field. My personal feeling was that while it might be a nice thing to do one person in this field isn't going to do much anyhow. It is just adding on another lone person without anything around. As opposed to the prison and other things here, here is a new program. You don't have to do it, we don't have the money so the committee report was inexpedient to legislate.

Sen. HANCOCK: Was this considered part of the department of resources and economic development's budget or a special bill?

Sen. TROWBRIDGE: Only as a special bill.

Sen. HANCOCK: Did the commissioner speak for this?

Sen. TROWBRIDGE: No.

Senator Saggiotes moved that **SB 304** be recommitted to the committee on Finance.

Division vote: 9 senators voted yea. 13 senators voted nay.

Motion failed.

Motion of inexpedient to legislate. Adopted.

SB 250, relative to the funding of regional vocational school tuition and transportation from the sweepstakes fund and making an appropriation therefor. Refer to Interim Study Committee—Senate Finance and Education Jointly. Senator Rock for the committee.

Sen. ROCK: Mr. President, members of the senate, I think we are all aware of the way in which the proceeds from the sweepstakes monies are now funneled back to the communities. I am sure that we are also well aware that the origi-

nal intent was for new programs and additional school benefits, in many cases in some communities it is used to lower the tax rate. Notwithstanding that usage of the sweepstakes money, you have a two-pronged fork here. The first prong of the bill would divert sweepstakes money currently paid for whatever the school district wants to use it for diverted into regional vocational education specifically. The committee is very well aware of the benefits of vocational education in the way that we embark on building as the community makes application, new and improved regional vocational training schools. Keene, Nashua are on board and this is going to grow. The second prong on this bill would eventually take away the transportation monies that are used to send the kids from Milford which is a cooperating district with Nashua, and that transportation money would be removed. The problem is going to be as we increase the number of these regional vocational schools, the cost of them is going to keep going up and you will find yourself, in a very few years, with a cost of say \$4 million in transportation and the funding and tuitions and you would find yourself with only \$4 million revenue from the sweepstakes. So all of the money from the sweepstakes could eventually end up going just for the regional vocational schools. That might be good for Nashua because we have a regional vocational school but it would be very bad for Manchester, Senator Provost's district, so some districts would benefit and others would stand to lose. The concern with the committee also, was, are we going the right way in providing the necessary benefits, are we going to have to look at the state's statutes which indeed say that after age 14, you don't have to transport someone to school. In some districts high school students are not transported as are the grammar school students. Now we are going to have to see where they are going to come from as the monies grow and so the committee recommends interim study jointly between Senate Finance and Education and see if we can't come back with a better answer than SB 250.

Adopted.

Senator Blaisdell was presented with a Senate resolution.

RESOLUTION

WHEREAS, Clesson J. Blaisdell has just retired after twenty-five years of basketball officiating, and

WHEREAS, since 1952 "Junie" Blaisdell has refereed in 22 state tournaments and 35 state championship games, and

WHEREAS, he has also officiated the New England Schoolboy Championship, and

WHEREAS, many young athletes have received encouragement and support from "Junie" Blaisdell, now therefore be it

RESOLVED, that we, the members of the 1977-78 New Hampshire Senate extend to State Senator Clesson J. Blaisdell of Keene our gratitude for his help to the youth of New Hampshire and our best wishes for the future.

(Signed by all Senators)

ATTEST: Senate Clerk Wilmont S. White

DATE: May 12, 1977

Adopted.

Senator Trowbridge moved that HB 315 be taken from the table.

Sen. TROWBRIDGE: Members of the senate, I know very little about this bill except prior to the joint rules being adopted, it got laid on the table in a symbolic form I believe. I have had a couple of my people in my district asking what has happened to it. So I thought that now that we are through that period that I could resurrect it. I understand it is absolutely uncontroversial.

Sen. PRESTON: Mr. President, this bill was placed on the table because of an inquiry from Senator Keeney as to whether or not the trustees trust funds had the right to pay for bookkeeping, computer expenses at the banks. I have a response from New Hampshire Banker's Association that they have told me they still cannot the answer the question directly

and neither did we get a definitive answer from the Department of Revenue Administration so it does seem like an insignificant bill but in all honesty I still don't have the correct answer for Senator Keeney.

Sen. POULSEN: Senator Preston, I am by no means a commercial banker, and we do have people representing commercial banks among us, but is there a charge for the handling of trust funds, does not the bank live on the use of that kind of money and not make any charges?

Sen. PRESTON: I don't know the answer to your question.

Sen. KEENEY: This bill was tabled due to a question I asked but I wouldn't object to it coming off the table even though the question isn't explicitly answered.

Adopted.

HB 315, permitting trustees of trust funds of towns to hire or employ trust departments of banks to assist in the management and investment of trust fund resources.

Adopted. Ordered to third reading.

VACATE

Senator Brown moved that HB 802 be vacated from Administrative Affairs to the committee on Public Institutions.

Sen. BROWN: This has to do with hospitals and what takes place in hospitals and I believe that the expertise is in the public institutions committee.

Adopted.

Senator Trowbridge moved that HB 311 be taken from the table.

Adopted.

HB 311, relative to notice by the conservation commission to the water resources board on local investigations pending dredge and fill approval.

Sen. KEENEY: I don't know why it was tabled but it was recommended ought to pass by the Environment Committee and it would merely give the conservation commissions throughout the state additional time to investigate when dredge and fill applications are brought to their attention. It would also extend the period that they have from 7 to 14 days. I recall one question having been asked of me at the time this bill was first reported in—that was whether or not Mr. McGee had appeared on it. I have checked with him since and he did not appear before the senate on this bill.

Sen. POULSEN: When you talked to Mr. McGee did he extend approval on the bill?

Sen. KEENEY: He told me had spoken against it before the house but he has no feeling on it now. It was more or less up to the legislature whether or not they wanted to extend time to the conservation commissions or keep the time limits in behalf of those who put the applications in.

Adopted. Ordered to third reading.

Senator Monier spoke under rule No. 44.

Sen. MONIER: Earlier this week this body failed to abolish a constitutional amendment which would abolish the governor's council. I believe today that some of the senators might want to change their vote. Copy is unclear—on subject of Norris Cotton—It is unthinkable to think that Louis D'Alessandro could join with and vote with this slap in the face for this man who has served the Republican party faithfully for the past 56 years. Dudley Dudley at least has an excuse, she is a Democrat. Norris Cotton was elected to the New Hampshire house at the age 21, the first man to be elected at that tender age. He rose through the ranks to become Speaker of the House, he served in the United States Congress from 1947 to 1955 and he served as a United States Senator with distinction for our state from 1954 to 1976. During that time he unselfishly fought for republican causes, conservative, in support of republican philosophies. I am confident that republicans and fair minded citizens of our state will find it difficult to believe that members of our governor's council kept this public servant from a career in public service. They did so, in my opinion, so that they could keep one of their own crew—

(tape unclear)—their vote is an insult, as far as I am concerned to the American people. (Unclear).

Senator Rock spoke under rule No. 44.

Sen. ROCK: Mr. President, members of the senate, I am somewhat flattered and honored, I guess, for I see now that I have joined the ranks of distinguished and eminently qualified New Hampshire citizens having been rejected for a nomination to the board of trustees for the University of New Hampshire. I think that we should see the game plan quite clearly by now. The governor of the State of New Hampshire has the authority to make the nomination of 12 of the 25 members of the board of trustees has been rejected 3 times now in his nomination. They have rejected a qualified and dedicated trustee, Joseph Moriarity of Lee whom I know has been a very hard working trustee, I have had the opportunity to work with Mr. Moriarity on numerous committees, I know the time and the interest he has put in to his work as a trustee and Mr. Moriarity was rejected after his name was put forward for renomination by Governor Thomson. Now I see a man whom I have always felt had nothing but the highest love for his state, he was an advisor to presidents, he served in that very distinguished body, the United States Senate, with an outstanding record, and I am sure today, had Norris Cotton chose to seek reelection, he would be our United States Senator today and would be representing the State of New Hampshire in the most important elective body in the world, the United States Senate. I have no doubt in my mind that his vote would have been an overwhelming vote. Norris Cotton's election would have been a landslide. And to have 3 members of the council take the position that a man who could today be our United States Senator had he chosen to run, is not qualified, able or talented enough to be a trustee of the University of New Hampshire, is unconscionable to me. I think that the council, for whatever reason, in using its negative powers, has made a grave error and in their reasoning has been shortsighted in the way that they have been dealing with the university system. I think we must realize the size of that board of trustees. The power of the board of trustees and wherein that vote lies and how people are on the board of trustees and the overwhelming election that was given to the governor of the state; I think as Senator Monier says, a mandate for his

policies and his ideas to be carried throughout the state. I don't think there are many voters who aren't aware of the fact that one of his responsibilities is the nominating of new persons to the board of trustees. Now whether Norris Cotton served a full four years as a board member, or one or two or three would make little difference to me. I am sure that every month that went by while he was a trustee would have had something very valuable and important to contribute to the nation and state and to the well-being of the university system. Again I am however flattered for I am in the same position.

Senator Bossie moved that CACR 25 be taken from the table.

Adopted.

CACR 25, relating to: The Executive Council. Providing that: The executive Council be abolished of its powers to confirm various appointments be vested in the Senate.

Sen. SMITH: Mr. President, we have heard here some criticism of a vote that was taken in opposition to Senator Cotton being on the governor's council. I will say that I have worked hard in the past for Senator Cotton, before his reelection and I too am disturbed. However, I cannot change my view as to the ill advice which the senate may take to pass this constitutional amendment to abolish the council. I recognize that many people may feel that the council did wrong in its vote on these two particular nominations. We have had a council for over 200 years and we have had a senate for over 200 years and I think there are many people in this state who feel on occasion that the senate may have taken some wrong steps and voted the wrong way on pieces of legislation. I think as far as the senate is concerned, that this orchestration of personal privilege, the taking from the table, is an act of petulance and not one of reason and it is an act of petulance when the senate is tired and when the arguments I think have been given pro and con, in a reasonable and rational manner and now the senate is being asked to act on a purely emotional basis. I hope the senate will not order the constitutional amendment to third reading.

Sen. ROCK: Senator would you believe that I am not tired

and I intend to stay here all afternoon to debate it all over again.

Sen. BOSSIE: Senator, as one who is not overly inflamed by the actions of today, being one of the opposite party, I have a different outlook on the whole matter of whether or not we should abolish the governor's council. Whatever took place here today is fine for those of you who wanted to consider it in that light. As for me, I have always felt this. It was very interesting that years ago, it was the liberals who wanted to get rid of this pack because of the fact that they were rubber stamps. Now that things have changed a little the more conservative wing wants to do away with them because of the present governor. Let me remind each and every one of you that this bill if it passes will not affect most likely, the incumbent governor and perhaps a substantial number of the incumbent councilors because it would take effect in 1981 at the very earliest. I have given you the reasons why we should do away with it. I realize that the good senator from District 3 got great press when he said that all that is old is not necessarily bad. And I agree with that philosophy but for this case. At the same time things need improving. I have no objection if somebody comes up with a constitutional amendment to increase the size of the senate from its present 24 to 36 or 40. I have no problem if you want to reduce the size of the house from 400 to 200. I think that would be a positive step. At the same time if we are going to have a governor he should have some power and he should not have a bunch of people around him, rubber stamping or negating things that he should do. What we should do is have one governor and if he acts in an irresponsible manner let us boot him out at the next election. After all the furthest stop is 2 years. So I would ask you to join me in supporting this constitutional amendment and passing it at this time.

Sen. SANBORN: I assume that you recognize the fact that you and I are of opposite parties?

Sen. BOSSIE: We generally are.

Sen. SANBORN: And that you and I have opposite philosophies.

Sen. BOSSIE: Generally we do.

Sen. SMITH: I am just a political neophyte and I just cannot understand, but I proposed abolishing the council back when I ran for office and I got blasted as being an irresponsible liberal and now it is Loeb and the conservatives pushing

this issue. I can't understand that, can you explain it to me?

Sen. ROCK: I just think it is the way the worm turns senator.

Sen. BLAISDELL: Senator Smith, if a nomination today for Senator Cotton was to replace trustee Moriarity do you feel that maybe it might have passed?

Sen. SMITH: Hard to tell but it might be true.

Sen. BLAISDELL: Do you think that the council today was taking a hard look at who they were taking off that trustee board, Mr. Morse?

Sen. SMITH: I think they were.

Sen. TROWBRIDGE: I would just like to say, going way back, the council was put there in order to restrain the executive branch. You will recall the first time I was in the senate, the first day about, Governor Thomson decided that he would take a look at the tax files, he was supposed to have the consent of the council, never bothered to get it, he went through a great many acts during the last four or five years which needed restraint and I think that if we learned anything out of watergate, we learned one thing—it is not to put too much power in any one person's hands. Even though that council in 1973 did not act to restrain, here for the first time, we have a council that is acting as an independent body as a restraint on the unlimited power of the executive. They have their reasons for their vote, Senator Blaisdell alluded to it. I think at this time that it is time for those who are conservative to say these strike both ways—if you can't live with it before you have to live with it now. You will have to take your lumps and Governor Thomson has to take his as well.

Question of ordering to third reading.

Senator Lamontagne moved the previous question.
Adopted.

Senator Blaisdell requested a roll call. Seconded by Senator Gardner.

The following senators voted yea: Lamontagne, Poulsen, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Bossie, Fennelly.

The following senators voted nay: Smith, Gardner, Blaisdell, Trowbridge, Keeney, Hancock, Downing, Preston. Foley.

15 yeas 9 nays

Adopted. Ordered to third reading.

Senator Lamontagne spoke under rule No. 44.

Sen. LAMONTAGNE: Mr. President and members of the Senate, I apologize for having to leave, but at this time I would urge that HB 333 will not be taken off the table at this time. The reason for this is because I have learned through the Princess Theater in Berlin, New Hampshire, that he has been asked by the Rooms and Meals tax to pay back for four years taxes on popcorn and candy. Now when I supported the rooms and meals tax I always understood that there would not be a sales tax, that this was going to be a rooms and meals tax. At the same time, it was understood, that children would not be asked to pay a tax. Therefore, now if you are going to be taxing popcorn and candy then I consider that to be a sales tax and not a rooms and meals tax. I also learned of this when I was with the Senator from the Second District when I bought a small box of candy for 99c and I was told there was a tax of 4c. So now as far as I am concerned, the way that this tax is being put on, is nothing else but a sales tax which I have always opposed and I am going to go on opposing it and if the rooms and meals tax is going to be producing such a tax and at the same time putting the knife in the backs of people to pay back, I will never vote for this bill and at the same time I will never vote to increase the rooms and meals tax.

Senator Preston moved reconsideration of HB 109.
Adopted.

HB 109, relative to official state songs.

Senator Preston moved that HB 109 be placed on second reading and open to amendment at the present time.
Adopted.

Senator Preston moved an amendment to HB 109.

Amendment to HB 109

Amend the bill by striking out sections 3 and 4 and inserting in place thereof the following:

3 Repeal. Laws of 1977, 7:1 and 7:3 relative to the fourth state song and honorary state songs are hereby repealed.

4 Other Songs. All songs designated as state songs on the effective date of this act and not chosen as the official state song shall be known as honorary state songs but shall not be construed to be the official state song.

5 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to third reading.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, except CACR 25, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, May 17 at 2:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

HB 320, relative to secured loaning authority of cooperative, banks, building and loan associations and savings and loan associations.

HB 321, relative to applications for mortgage loans from cooperative banks, building and loan associations and savings and loan associations.

HB 322, relative to the unsecured loaning authority of cooperative banks, building and loan associations and savings and loan associations.

HB 347, relative to the maximum time period for the amortization of loans.

HB 394, relative to the use of funds of credit unions.

HB 395, relative to retirement accounts for credit unions.

SB 121, providing for the defense and indemnification of state officers and employees against certain claims.

SB 287, amending the state operating budget and making an appropriation therefor.

SB 343, making an appropriation for the American and Canadian French cultural exchange commission.

SB 345, making a supplemental appropriation to nurse's registration board.

SB 206, relative to the salary of an unclassified employee as it relates to the salary of a subordinate classified or unclassified employee.

HB 315, permitting trustees of trust funds of towns to hire or employ trust departments of banks to assist in the management and investment of trust fund resources.

HB 311, relative to notice by the conservation commission to the water resources board on local investigations pending dredge and fill approval.

HB 109, relative to official state songs.

Adopted.

CACR 25, relating to: The Executive Council. Providing That: The executive Council be abolished of its powers to confirm various appointments be vested in the Senate.

Division vote: 15 senators voted yea. 9 senators voted nay.

Adopted.

Senator Fennelly moved to adjourn at 4:20 p.m.

Adopted.

Tuesday, May 17

The Senate met at 2:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Most gracious father, grant us keen minds for straight thinking as we prepare ourselves for the activities which face us at the beginning of another legislative week.

May thy divine power open up new channels of opportunities for us as we turn to the events of this day.

Let us with thy help and a strong will work hard to carry out those things which thou hast called us to do. Hear our prayer. Lord.

Amen

Senator Blaisdell led the Pledge of Allegiance.

SUSPENSION OF JOINT RULES

Senator Trowbridge moved that the Senate suspend the Joint Rules so far as to allow the appropriations bills from the House to be allowed into the Senate until the end of Tuesday, May 24, 1977.

Division vote: 17 senators voted yea. 4 senators voted nay.
Adopted.

VACATE

Senator Monier moved to vacate HB 456 from Executive Departments to the special committee on Elections.
Adopted.

HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 437, 517, 342, 365, 426, 436, 1104, 1103 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 437, relative to the payment of assistants and employees of the state racing commission. To Ways and Means.

HB 517, providing for the acquisition of a tract of land to be known as the Pine River state forest and making an appropriation therefor. To Recreation and Development.

HB 342, relative to deputy conservation officers. To Recreation and Development.

HB 365, requiring a permit or license for those engaged in the business of designing or installing subsurface sewage or waste disposal systems under RSA 149-E and making an appropriation therefor. To Executive Departments.

HB 426, revising the state tax on dog racing. To Ways and Means.

HB 436, revising the state tax on harness racing. To Ways and Means.

HB 1104, changing the penalty for failure to file user of fuel reports with the road toll section. To Ways and Means.

HB 1103, relative to population calculation for rooms and meals tax purposes. To Ways and Means.

HOUSE CONCURS

SB 27, revising the occupational regulations relating to barbering.

SB 65, relative to requiring certain information to be included in correspondence from state agencies.

SB 8, providing for the cy pres of cemetery trust funds.

SB 6, providing for a power of attorney which survives disability or incompetence of the principal.

HOUSE REFUSES TO CONCUR

SB 67, increasing the daily salary of a special justice of the district and municipal court.

SB 74, relating to the regulation of polygraph examiners.

SB 80, relative to the sale of cider.

HOUSE REQUESTS CONCURRENCE IN AMEND-
MENTS

SB 61, relative to the treatment of juveniles as adults in criminal cases.

See House Record page 2030.

Senator Bossie moved to concur with the House Amendment.

Sen. BOSSIE: The house bill will not terribly alter the bill as the senate had done. I have no objection and basically the effect of the bill as I had proposed it would be satisfactory so I would ask my senators to concur with me on this amendment.

Adopted.

SB 25, relative to sweepstakes commission funds.

See House Record page 1358.

Senator Downing moved to concur with the House Amendment.

Sen. DOWNING: We are just cleaning up the language of the bill and I have talked with the sponsor and the Sweepstakes Director and there is no objection to the amendment at all.

Adopted.

SB 1, relative to the duties of city and town clerks for voter registration.

See House Record page 1836.

Senator Sanborn moved to concur with the House Amendment.

Sen. SANBORN: Basically, Mr. President, the only thing that this amendment does is allow a town to decide for itself if it doesn't want the clerk to accept application registrations on the voter list. Opposite to what the law is now.

Sen. HANCOCK: As it is now the clerk has to register?

Sen. SANBORN: The way the law is now the town may vote to have the clerk accept the registration. The way the bill originally read was if they had regular office hours they would accept them. The only thing this thing does is allow the town to vote not to.

Sen. HANCOCK: In other words the town that did not want to do this would not have to have an article in the warrant and it would have to be voted on by the town meeting.

Sen. SANBORN: Correct.

Sen. HANCOCK: Otherwise it will remain as is.

Sen. SANBORN: That is correct.

Adopted.

SB 2, permitting optometrists to advertise prices for glasses and contact lenses.

See House Record page 1422.

Senator Brown moved to concur with the House Amendment.

Sen. BROWN: The house amendment allows the attorney general's office in case of violation to take it out of the hands of the optometry board and was requested by the optometry board.

Adopted.

(Senator Foley recorded in opposition)

SB 73, permitting members of the New Hampshire Fair Association to hold on-sale permits.

See House Record page 1425.

Senator Sanborn moved to concur with the House Amendment.

Sen. SANBORN: The only thing that the amendment does is change the effective date of the bill from the usual 90 days to effective upon passage.

Adopted.

SB 72, instructing the commissioner of resources and eco-

nomic development to erect a commemorative marker on the Hampton harbor pier commemorating the Irving N. Jones family for contributions to commercial fishing.

See House Record.

Senator Preston moved to concur with the House Amendment.

Sen. PRESTON: This is merely a change in the middle initial of the person for whom the marker is to be commemorated.

Adopted.

SB 39, requiring the mailing of resident tax bills within 30 days of the receipt of the tax warrant by the tax collector and changing the requirements for motor vehicle registration.

Senator Monier moved to nonconcur with the House Amendment and set up a committee of conference.

Adopted.

The Chair appoints Senators Preston, Monier, and Poulsen.

COMMITTEE REPORTS

SB 148, continuing the public defender system in Merrimack and Hillsborough counties for 2 years and extending the same program to Rockingham County. Ought to pass. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: You have heard the discussion on SB 148 once before as to the efficiency of handling the public defender system and we have the father of the public defender system in the chair and he has convinced us, and for many years we have had Merrimack and Hillsborough county covered by this. The question now is whether we add on Rockingham county. Every time that we have a deficiency appropriation one of those deficiency appropriations is for the lawyers fees who haven't been paid since January of people serving the state who are defending indigent defenders. It has proven to be a great deal economical to have a public defender system contracted with when the volume is high enough and the vol-

ume is high enough in Rockingham county. The present appropriation we now have is about \$57,000 a year. It will go to \$65,000 in the first year and when the full Rockingham county comes on on the second year it will go to \$93,000 for the entire program. There really aren't any other counties that have enough volume to justify it otherwise you would extend it. So senate finance is unanimous in support of the bill.

Adopted. Ordered to third reading.

SB 286, revising the pharmacy laws. Ought to pass. Senator Blaisdell for the committee.

Senator Blaisdell moved to lay **SB 286** on the table.
Adopted.

SB 50, relative to restructuring the public utilities commission and making an appropriation therefor. Ought to pass. Senator Rock for the committee.

Sen. ROCK: This bill has been discussed in this chamber and in the various cities and towns in which public hearings were held. It was sent to senate finance because of the fact that there is an appropriation on it. I explained to senate finance that the appropriation which would compensate the mandated full-time members of the PUC at a salary, \$25,000 and \$23,000 respectively, as well as the funding of the consumer representative in the PUC are funded out of the utility tax and a conservative estimate on the high side would be approximately 3c per month per household to take care of the appropriations required by this bill. It is hoped that the senate will pass SB 50. I know that the house is anxious to hold hearings on it. It has far reaching changes—as a matter of fact I was speaking to the attorney general for the state of New Hampshire, David Souter, and he concurs with me wholeheartedly that restructuring is necessary and imperative at the PUC. I won't go into the others matters that I raised under Rule 44 the other day but in fact there is a code of ethics set up in SB 50 that would preclude the problems that seem to be coming home to roost on Pleasant Street.

Sen. HANCOCK: Senator Rock, about how much difference in cost would this be from our present PUC?

Sen. ROCK: Including additional engineers which the PUC

themselves have requested, including the new positions of the director of consumer affairs, including a slight increase in salaries for the commissioners, including raising the number of commissioners from 3 to 5, the total is \$125,000.

Sen. HANCOCK: These charges are all paid for by the utilities?

Sen. ROCK: They are ultimately paid by the consumer senator. The utilities get their money from the consumers but if you were to break down the households of the customers which the commissioner did for us, they have recorded with the various utilities companies, a total of your telephone, your electric light, your gas, your water or whatever happens to be regulated, total households 3c/month.

Sen. DOWNING: Senator Rock, I have some very serious reservations about the need to increase the number of the commissioners. I probably missed it in your earlier remarks because I was out of the chamber, I wonder if you could explain why we need 5 commissioners instead of the 3 and just exactly what are the five commissioners going to do that the 3 commissioners don't do now.

Sen. ROCK: Excellent question senator. One of the things that is confronting, although there are certain members of the commission who might not agree, one of the problems confronting those who are before the PUC for hearings now is the tremendous backlog that obstructs the resolving of the problem. For instance, certain matters have been before the commission now for over 2 years and these long delays could be avoided if you had 5 commissioners. For instance 5 commissioners could hear 2 or even 3 cases once and report back as a body and then sit down and make their deliberations. 2 members might be hearing a franchise for picking up trash while 3 members could be hearing the water works in the community of Nashua. We could break up the workload by having more of these members of the commission plus the 3 member PUC was set up at a time over 30 years ago—as a matter of fact let me go back further—one time there was no such thing as a PUC at all. The legislature of the state handled these problems, they were all funneled into the legislature and as utility problems became more complex the Public Utilities Commission was established. It is an arm of the legislature. Now we are getting to the point where spiraling inflation, difficulty with site hearings, the problems with changes in ways in which utilities operate, the regulatory work of the commission

ten-fold since the 50's when there were 3 commissioners. And as a matter of fact in those days, those 3 commissioners weren't very busy at all—the cost of electricity was going down and there was no such thing as coming in for fuel adjustment charge hearings, or rate hikes and the like. But now that workload is very different and again senator, I can only say, the input to the bill itself, as Senator Saggiotes, is a result of many, many sources giving us what they felt were the answers to the problems facing the PUC. If you could see the weekly report of how far ahead hearings are scheduled and the many years that people have come to us that we can't get these problems resolved you would agree with us that 5 makes more sense than 3 at this point. That was the feeling of the study committee that made the recommendations after the 2 years work that they did.

Sen. DOWNING: Couldn't hearing officials be employed that could do the same thing as far as dispatching or expediting the work of the hearing process without actually getting involved with the hiring of more commissioners?

Sen. ROCK: Well you have to hire hearing experts so you're going to spend the dollars one way or the other—although the commission has the authority now to hire hearing people, but I think that the people of the state deserve to have a full-fledged, appointed commissioner hearing those hearings, being on the bench so to speak, as judge and jury as they are, and making these deliberations themselves rather than a hearing examiner.

Sen. DOWNING: What is just the salary item of commissioners, what is the difference going to be there senator?

Sen. ROCK: Right now there are no statute mandates, the commissioners have no outside work that they specifically direct their full attention to the work of the PUC commissioners. That on the feeling of the committee was extremely important. They are now compensated at between \$17,000 and \$19,000. This raises it to \$23,000 and \$25,000 respectively. This is to take care of the increased responsibility of being full-time.

Sen. PRESTON: Senator Rock, I know that you have put a lot of work into this bill but during the hearing, was not testimony given, an Arthur D. Little study, recommending beefing up the present PUC with staff to more or less speed up the hearing processes and so forth?

Sen. ROCK: There were recommendations for additional

persons, engineering-wise, etc. We have implemented some of those, but not all of them. You don't have to restructure the PUC for that senator, the PUC can come in now before finance and ask for extra people and one of the problems they seem to have now is filling the slots they have open now.

Sen. PRESTON: Isn't it true senator that we did not provide those suggested spots that the Arthur D. Little study had recommended?

Sen. ROCK: No that is not true. We did not provide all of them, we have provided some of them—especially in the finance and accounting fields. Arthur D. Little recommended that there be a finance director, we have adopted that, the PUC now has it, in the person of David Lessels and he has been extremely effective and he was one of the recommendations of the Arthur D. Little task force study. There were others, you are correct, all of them have not been approved by the legislature but many of them have, this goes much deeper into the workings of the commission inasmuch as it establishes—and I think this is very important, it establishes some criteria for those people who are to be commissioners. They must have certain qualifications which we don't now have in the appointment process but I think is as important as the increasing of the number from 3 to 5 to handle the work. Ask anyone down there about the backlog—it's terrible.

Sen. PRESTON: Isn't it true that the director did testify that if they had had more staff at this time they could do their job more efficiently?

Sen. ROCK: In senate finance we hear that from every single office that comes before us every day. We think that this bill says if you change the structure, a lot of other things may happens and fall into place that are necessary. I think also senator that we have to realize that a little survey and study which was all encompassing recommended a lot of other things that the legislature didn't do also.

Sen. FENNELLY: It is my understanding that if we had two additional commissioners the salaries would be an additional \$38,000, that the utilities would have to pay some-way the salaries of these two commissioners—passed onto the consumer?

Sen. ROCK: In addition to the free lunches senator they are paid out of the money that comes into the state from the utility tax. The utilities are taxed a certain percentage, that comes

into the state and from the general fund we pay the operation of the PUC. But it is the consumer who pays and the cost to each household in the state is 3c/month to do what I think is a monumental step forward in making the Public Utilities Commission and this was the bill and directive that established the study committee to be more responsive to the public of this state. Voice, a low income group in Nashua, had a petition before the PUC for two years. And they couldn't get an answer and the reason was that they were told they were too busy. And they have there is no question. Rate hearings, fuel adjustment changes, telephone company increases, transportation which are taking a great deal of their time, is taking its toll on the work hours of the 3 commissioners.

Sen. DOWNING: I rise in opposition to the bill. I think that the bill has more good than bad and I think that the code of ethics is excellent, I think that the council is very good, the consumer affairs director is very good but I don't like the idea of making the commissioners full-time and I like less the idea of increasing it from 3 to 5. I think it is an unnecessary expenditure and I think that the same things can be done with the 3 commissioners and I don't think we need to increase the expense there at all. The expense or governmental positions. I would much rather that these same dollars be put into and spent in additional professional talent within and support the committee. For that reason and that reason alone, just the number of commissioners and the full-time versus part time, I oppose the bill.

Sen. BRADLEY: Senator Rock is there a typical number of people on a board in other states?

Sen. ROCK: We studied that senator, 3, 5 and 7. It goes up and down. In some states that had 7 went to 5, some that had 5 went to 3 and some that had 3 went to 5. Five is an average number. I would like to further respond to Senator Downing's objections. It is difficult for me to comprehend how a person can run a full-time law practice on his own and still give what he says is full-time to the state of New Hampshire for \$19,000 as a PUC commissioner. That is very difficult for me to understand especially when they're told they have to be there from early in the morning till late at night. In two cases, we have lawyers on the PUC who are running law practices on the side and telling us that they are still full-time commissioners. I think that that is wrong, the committee that studied it thinks that is wrong, we think that there should be some strict

guidelines as to what they can and cannot do and that's what SB 50 does.

Sen. PRESTON: Senator, when you mention a commission of five, by comparison to the present commission, the present commission consists of all lawyers does it not?

Sen. ROCK: No it doesn't it's 2 out of 3.

Sen. PRESTON: Second question, in your restructuring section of this are you mentioning who should be on this by profession?

Sen. ROCK: Yes, 1 but he would not be able to practice law on the side, he would have to be a lawyer but just for the Public Utilities Commission.

Sen. BROWN: Was it not testified to the committee when the bill was before us that a regulatory agency such as the PUC on the federal level in other states, where they had bodies larger or greater than 3, that the move and the trend was to reduce it down to a staff that they needed. Is this not correct?

Sen. ROCK: Yes.

Senator Blaisdell moved the previous question.

Adopted.

Adopted. Ordered to third reading.

(Senator Preston, Downing, Fennelly, Foley, Brown, Provost, recorded in opposition)

SB 335, relative to the establishment of a division of graphic services. Inexpedient to legislate. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: This is an interesting bill in that on first glance, it proposes to set up a department of graphic services, a separate department, where all state printing would be done. It has two new directors, a new staff and it almost mandates that any state printing has to go through that division of graphic services. I have talked extensively with Senator Rock on this situation and with John Stimmell in the house who has been someone in the printing industry for years. The way we see it—we talk about not competing with local enterprise—here is a situation where you have a good deal of printing done by the state, much of which is done by Gus Gilman's place, DRED. The normal, mimeographed, 8½x11 printing in which the legislature which has first call.

But then you have printing services at the prison. If this passes then you supposedly would have to close that down because they all have to be consolidated. But in the prison industry they have done a very good job of training people for the printing trades. Then you have the deadline problem. This problem being that everybody has the same type of deadline—if you all have to be in one channel, and you have seen this happen in centralized data processing, although you have a lot of capacity there, everybody wants it at the same time and there is no way of setting priorities. Really the basic reason for saying this is inexpedient to legislate is there is a lot of printing available in this state. When we get a printing job it goes out on bid and anybody who is in the publishing or publishing industry knows that you do not go into printing that that is a separate industry. Good people don't simply go out and take on the job of printing. There is a lot available and we can get better prices by laying it out to the various presses who will have capacity at the time you need it by making another state department which will then consolidate and grow and you will wonder one day, why is it that I can't get my report printed—it is because SB 335 was passed without adequate consideration. We strongly urge that this bill be inexpedient to legislate.

Sen. ROCK: You brought out all of the salient points but I think there is just one other issue that maybe we should make clear and I'll try to do it through the interrogatory. Isn't it true that private industry now, the state by going out for bids, could find itself not only having to establish a bureaucratic layer, but we often can save money by going to speciality houses that do certain four color processes rather than to gear up to do all the things that even in the trade they don't do themselves.

Sen. TROWBRIDGE: Precisely. The industry itself is diverse and you go to the best printer for the job.

Sen. BERGERON: Senator when we originally heard this bill on the floor it seems to me that I recall a figure of some \$1 million dollars in savings by passing this bill. What happened to it.

Sen. TROWBRIDGE: I think what people were talking about is that we now spend somewhere in the neighborhood of \$1,500,000 overall, everywhere in printing and they said if we didn't spend that, put it in here where we have our own budget set up to do our own printing. It sounds good. But

what we are saying is that you will end up spending more than that and it is a phony savings. Let us say you need a four color process and you can't do it in one color. That means a four color press of any size will cost you over \$250,000. There is a great deal lurking in this bill. It is not all funded. It is like saying lets have centralized data processing without a computer. You can set it up but it doesn't make it happen. What we are doing is relying on the experience of some of us who have been in the trade, Mr. Stimmell, as well in the house is very knowledgeable, that you just don't go this route and you don't make that kind of a savings. 60% of what they are printing now cannot be printed by Roger Quimby with what they have now. Xerography costs us more than printing now in this state. It is a form of printing, it is rapid printing. In black and white so that when you really take a look at, if you pass this bill they way it is written, the way it is conceived, is that no one can print anything in this state except through the division of graphic arts. That is where we are saying, no no, because you know that people will want to go around it and will go around it and the red book is going to be printed by . . . we are not geared up.

(Senator Smith in the chair.)

Adopted.

SB 321, establishing the office of state negotiations. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: This bill establishes an office of state negotiations. We don't have one at this time and we badly need it to put somebody on full-time to work things out with better coordination throughout. It is only a small appropriation of \$37,000 for the first year and \$38,000 for the second year. I recommend its passage.

Adopted. Ordered to third reading.

SB 157, relative to regulation of carnival amusement equipment by the division of safety services. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: Mr. President we have discussed this bill previously on the floor when it came in from recreation de-

velopment committee and finance has looked it over and basically what it does is add one person with the necessary equipment etc. to add to the department of safety, work with the tramway inspectors in making the inspection of these various carnival equipment throughout the state. The total works out to \$29,000 the first year and \$26,000 the second year. This will guarantee all the various carnival equipment each time that it is set up throughout the state during this time year is weekly, will be suitably inspected to be sure that it is safe and safety set. We urge adoption of this bill.

Sen. BRADLEY: Does it establish everytime it is set up it is inspected?

Sen. SANBORN: The legislative intent is that it shall be.

Adopted. Ordered to third reading.

SB 200, to create a state district court system for Belknap, Carroll and Grafton counties, with full time judges, clerks, and other personnel as state supported courts and making an appropriation therefor. Ought to pass. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: This bill came before the senate before from judiciary at which time it was clearly the sentiment of this senate that Belknap and Grafton counties move into the district court, unified district court system. The original bill had Carroll county on it and it has since been removed and we have heard no objection to this bill and evidently everybody in Belknap and Grafton county appeared to go this route. As you know there are enough case loads—we move out of the fee system into the salary system—and the district court judges get 95% of what the associate justice would in superior court. Obviously there is enough court business in Belknap Grafton county at this time to make the conversion and there is enough willingness on the part of the procedures there to take it. The court fees again will be the source of revenue for the judges just as they are now so the appropriation is entirely in line.

Senator Healy moved to refer **SB 200** to Judiciary for interim study.

Sen. HEALY: Mr. Chairman, I appeared at that first committee hearing and I observed and paid special attention at what went on at that hearing and there was quite a bit of objection from different areas in those counties and the bill when it appeared before the senate, was referred back to interim study. Now they come back here today and I find out that Carroll county has been eliminated. It seems to me that there have been quite a few conflicting phases to this particular bill especially where the financial problems are concerned. There will be no money for fines and so forth going to the towns, the highway or the fish and game and the PUC and maybe not a great deal of money coming from those courts in those two counties but I think that this particular bill needs a lot more study. I am hoping too that in the study new study, the senators will give the people a little assist on this because when I look at this committee I find there are two lawyers on it, one who is a sponsor and this is a piecemeal operation and it is time that the judicial system got down to business and came up with one particular system and not start coming in with county by county. 3 out of 2, 1 pulls out 2 stay in, first thing you know the whole state is going to be sort of a quilt work of district court procedures and judicial problems. So therefore I recommend that this go back and be given better study than it has. I don't like the bill presently at all.

Senator Bradley requested a roll call. Seconded by Seantor Downing.

The following senators voted yea: Bergeron, Saggiotes. Monier, Healy, Sanborn, Provost, Brown, Fennelly, Downing, Preston.

The following senators voted nay: Lamontagne, Poulsen. Gardner, Bradley, Blaisdell, Trowbridge, Rock, McLaughlin. Keeney, Hancock, Bossie, Foley.

10 yeas 12 nays

Motion failed.

Adopted. Ordered to third reading.

(Senator Downing, Preston, Fennelly, Brown, Provost. Sanborn, and Healy recorded in opposition.)

SB 303, establishing a department of corrections merging therein the state prison, the youth development center, the department of probation and the board and department of parole. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: Mr. President I think the senate has heard a long discussion on this bill already. Actually, the bill is the amendment as offered by Senator Hancock. The finance committee has looked at this bill and we think that this bill should be passed on to the house for final passage.

Adopted. Ordered to third reading.

SB 173, establishing the NH municipal bond bank as a public body corporate and politic for the purpose of facilitating the borrowing of money by counties, cities, towns and districts and making an appropriation therefor. Ought to pass with amendment. Senator Rock for the committee.

Amendment to **SB 173**

Amend the bill by striking out all after section 1 and inserting in place thereof the following:

2 Effective Date. This act shall take effect July 1, 1977.

Sen. ROCK: There was strong support for the concept of bond bank, the bill does not mandate that any town or city participate in the bond bank but it allows participation on a voluntary participatory basis. It allows the towns and the cities to pool their needs for monies and put out a large issue that would be more attractive to the investing market than would a small \$900,000 issue for a small school district. Working very well in the state of Maine and the reason that it was sent to senate finance was that there was an appropriation for start-up costs of \$60,000. The senate finance committee has eliminated the start up costs so that now the amendment that you see is with amendment, the amendment deletes the appropriation of \$60,000. It is not felt that that is necessary to get the start up of the bond bank. We recommend that the bill pass.

Amendment adopted. Ordered to third reading.

SB 216, providing for the replacement of the Cannon Mountain aerial tramway; making an appropriation therefor; and, establishing a special account for the income from tramway service charges for operating costs and amortization of the appropriation. Ought to pass with amendment. Senator Blaisdell for the committee.

Amendment to **SB 216**

Amend the bill by striking out all after section 2 and inserting in place thereof the following:

3 Appropriation. There is hereby appropriated the sum of \$3,700,000 to be expended by the commissioner of the department of resources and economic development for the purposes of this act. The commissioner of resources and economic development shall apply for bureau of outdoor recreation (BOR) funds. In the event that BOR funds are available for the purpose of this act then they are hereby appropriated and the state funds and bonding authorized in section 4 of this act shall be reduced by an amount equal to the BOR funds available.

4 Bond Issue Authorized. To provide funds for the appropriation made in section 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$3,700,000 and for that purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

5 Special Cannon Mountain Aerial Tramway Fund Established. Amend RSA 227:5 by striking out said section and inserting in place thereof the following:

227:5 Special Fund. The income from aerial tramway service charges shall be segregated into a special fund to be known as the Cannon Mountain Aerial Tramway Fund for the purposes of amortization of bonds and for the operation and maintenance of said tramway. The state treasurer is authorized to deduct from said fund for each fiscal year such sum or sums as may be necessary to meet interest and principal payments in accordance with the terms and conditions of the bonds issued for the Cannon Mountain Aerial Tramway. The department of resources and economic development, di-

vision of parks and recreation, may draw on any remaining funds each fiscal year for the operation and maintenance of the aerial tramway. In the event that the income from the service charges shall not be sufficient to meet the costs of operation and maintenance thereof and to pay the interests and principle of the bonds issued, then the governor is hereby authorized to draw his warrant against the general funds of the state to cover such deficiency. In the event that the fund shows a balance after obligations have been met insofar as amortization of bonds and operation and maintenance, then such surplus, not to exceed \$200,000, shall be used by the department of resources and economic development, with the approval of governor and council, for emergency expenditures at Cannon Mountain. The \$200,000 emergency expenditure surplus shall be continuing and shall not lapse. Any surplus over \$200,000 from such funds shall be deposited in the general fund of the state.

6 Payments. The payment of principal and interest on bonds and notes authorized by section 4 of this act shall be made when due from the special Cannon Mountain Aerial Tramway Fund established by RSA 227:5 as inserted by section 5 of this act.

7 Effective Date. This act shall take effect upon its passage.

Sen. BLAISDELL: This bill introduced by Senators Poulsen and Smith had strong support in our committee. The bill authorizes the department of economic resources and development to replace the Cannon Mountain tramway. I am sure that most of you know that this was built in 1937 and we have increased the load on the tramway from 37 to 80 people, you will find the amendment to this bill on page 13 and 14. What it does is make them ask for BOR funds if available and it puts a limit on the account that they can have—nothing over \$200,000. They can keep that for emergency expenditures on Cannon Mountain but the rest of it would have to go to the general fund. The annual income on this particular tramway would be \$1.7 million with expenses, operating and amortization would be around \$639,000. All of us felt that this was a good thing to do and that it would pay for itself since we are a tourist state it would replace something that maybe some people have some sentiment to but it was a great thing for this state and we ask you to support it.

Sen. TROWBRIDGE: One thing Senator Blaisdell, that you

went over fairly fast, and it may not be quite clear. When you talked about the income of \$1.7 and the cost of \$639,000 you were stating that on the basis of no BOR funding?

Sen. BLAISDELL: You're right senator and I am sorry I didn't bring that up but the amendment would speak to that. It would reduce it if we got the BRO funds.

Sen. TROWBRIDGE: If we were to be given 50% BOR funding then that operational expense with amortization would go down to something like \$390,000.

Sen. BLAISDELL: Right senator.

Sen. ROCK: Senator I heard on a radio station this morning who shall remain nameless, that this bill was going to replace the cars. My understanding is that it replaces the whole system, it speeds up the ride and it more than triples the number of passengers—it doesn't just put new gondolas on.

Sen. BLAISDELL: That's right. It replaces the whole system and will eliminate the lines that we have and as I said, bring a lot more revenue into the State of New Hampshire.

Sen. ROCK: Is it not a fact senator that we have heard testimony that we have lines which we could eliminate but we have

in the lines because they know that the delay is so long that they don't want to wait and that they would be customers too if this were not true.

Sen. BLAISDELL: Also when you get to the top of the mountain there would be a good speed coming down.

Sen. POULSEN: The point that Senator Rock just made as to the popularity of the mountain increases with the ability to service the people and it has hurt a little bit in the past few years in the summer because people have to wait, get discouraged and leave.

Amendment adopted. Ordered to third reading.

SB 254, eliminating the one year full pay provision for totally disabled classified state employees. Ought to pass. Senator Rock for the committee.

Sen. ROCK: This bill puts out state employees on the same basis with private industry. Under present law it classifies state employees totally disabled as a result of work-connected accidents, gets full pay for a full year, plus workmen's compensation benefits provided the combination of both does not

exceed the employee's full pay subject to deductions. In industry that doesn't happen. This bill eliminates the provision that a totally disabled classified state employee is entitled to collect full pay for a year. The disabled person would be entitled to collect workmen's compensation benefits in full and annual or sick leave benefits if collected by him provided the combination of the benefits does not exceed the employee's full pay. There were certain savings that were put forth estimated in establishing state employees at the same level as private industry that the senate finance feels may be overstated. We don't think that the savings totals are going to be there to the extent that were put forward in testimony but there will be some savings and it does seem that regarding this proposal. Commission of Labor, Duvall, told the House Appropriations Committee he favored similar workmen's compensation treatment for all employees, both in the state and in the private sector. That is what this bill does.

Sen. TROWBRIDGE: One thing and Senator Hancock may be bringing it up, and you'll hear why we are going backwards on the state employees. Some background is required. 2 and a half years ago a fish and game district officer was hurt while in the course of duty. There was a great deal of sympathy for that person because he had been pretty badly shot up and people felt that he should really be penalized because he had been shot up in the line of duty. And somebody passed a bill two years ago allowing this entire benefit, mainly that he get full pay plus workmen's compensation. The fact of the matter is that we shouldn't have done that. We probably were voting with our hearts and not with our minds because then at that point there is absolutely no incentive for anyone to come back to work if he can stay out for a year, year and a half at full pay. Totally disabled in this world does not mean what I consider totally disabled. Totally disabled means that you are unable to work—it could mean that you have a sore foot. And for purposes of the personnel rigamarole, you are totally disabled. We were thinking in terms of this man who really couldn't get up out of bed. So therefore, I don't see that you are going to have a great wave of people coming back to work, but you will have some and you are going back to a place that you should never have left. Lots of times we are going to have the same problem when we bring out the retirement bill so we do something in the heat of battle, we are all enthusiastic about it and then we find out that really we did an unfairness to the state

employees by giving them more than private industry does or anyone else. On that basis we are going back to where we should have been anyhow. And the savings I do not think are as great as the governor's people have projected. But that doesn't matter, because we ought to pass the bill anyhow.

Senator Hancock moved that **SB 254** be made a special order for Thursday, May 19 at 1:01 p.m.

Adopted.

SB 189, establishing a coastal resources management program and making an appropriation therefor. Ought to pass. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: This bill is the coastal zone management bill. It was filed by Senators Monier and Hancock. On the financial side there is no question that coastal zone management is an important section and the total of \$370,000 per year is in this bill. One of the interesting parts of it is that this does not go into effect unless it is adopted by the procedures set forth herein and below. The voters of the towns involved present and voting in each municipality, will have to vote in November of 1977 or in March of 1978 in order to make this bill effective. So in a sense you would not build up on the staffing until you had gotten those votes in order to see if the program is going to fly. There is a built in safety valve in this bill which has had a lot of controversy. The committee decided to vote in favor.

Sen. PRESTON: Where did the amendments come from?

Sen. TROWBRIDGE: Senator Hancock put that on.

Sen. HANCOCK: I have a slight amendment to make to the bill. It is a three part change and simply stated what it would do is change the name to the office of state planning which it is statutorily, there is no office of comprehensive planning under our statutes and this would recognize that fact and correct it. Secondly, the original bill sets forth the specifications of the director and I think that this belongs more properly to our personnel system rather than being set up by statute. Often-times, there is need for change one way or the other in personnel specifications and I think it is a poor practice to include it in the statute itself. Thirdly, I will read the section that I am recommending that we delete inasmuch as the Water Supply

and pollution control commission say that it is totally unrealistic and it is on page 26 of the original bill and it says, "within one year following the effective date of this chapter, the division shall adopt and from time to time amend by regulation such procedures, requirements and criteria for review and approval of any development proposal located in the tertiary zone which proposes to draw more than \$1 million gallons of fresh water per day from any surface, or ground water source in the coastal zone and which has received municipal approval if needed." I am going to talk further with the coastal zone management section and Senator Monier, with perhaps a view towards changing it in the house if necessary but at this time it is an unrealistic provision.

Sen. PRESTON: Senator Hancock why is this amendment offered at this time when there were many public hearings held and it is essentially the same bill that we got from the house?

Sen. HANCOCK: Actually, this amendment has been prepared for some time and it is not a very major adjustment and there is nothing very startling in it—I am sorry you didn't get it earlier. As a matter of fact it should have gone to the finance committee a week ago.

Sen. PRESTON: Would it not be better to give this a little more spotlight at a public hearing in the house?

Sen. HANCOCK: I think we can do that. I think that there is nothing here—all it does is correct the name, delete the personnel qualifications from the statute.

Sen. PRESTON: Does it do anything to change what the input of the local municipalities?

Sen. HANCOCK: No.

Sen. PRESTON: On page 3, is that any change senator?

Sen. HANCOCK: No, this is kind of confusing because of the many instances where the office of comprehensive planning was cited in the original bill, the amendment had to include all of these places in order to say the Office of State Planning.

Sen. MONIER: It is correct in one place. It does take away the tertiary water term, and I do know the Water Pollution Control Commission said that they felt this couldn't be done; also takes away the regulatory authority of the director and the office and division that we are establishing to deal with that kind of a subject and I don't think that should all come out and I certainly think this is not the place to debate it, I

think it ought to be done in front of a committee and at a public hearing. And last but not least and I stand corrected and I have no objection to being corrected on it, but when I look at the book that I had, a marked up book on it, I find that it deletes also another section, I think it affects another referendum, but I am not sure as a result. I urge that we defeat this amendment at this time and let the bill go to the House. Let the amendments be offered there and we'll be very happy to deal with it at that point.

Sen. PRESTON: I don't know if I am in opposition or not because I don't think that we have had a full explanation or a full hearing on this so I am going to vote against this amendment and hopefully it can get better consideration in the House.

Senator Hancock moved an amendment to **SB 189**.

Amendment failed.

Adopted. Ordered to third reading.

SB 347, providing for additional staff and upgrading certain facilities at Laconia state school and training center and making an appropriation therefor. Ought to pass with amendment. Senator McLaughlin for the committee.

Amendment to **SB 347**

Amend the bill by striking out paragraph 1, I and inserting in place thereof the following:

FY 1978 FY 1979

I. Laconia state school and training center Custodial Care and Maintenance

10 Permanent personal services	\$21,437	\$40,678
20 Current expenses	1,500	500
30 Equipment	7,776	-0-
60 Benefits	3,216	6,102
	\$33,929	\$47,280

Professional Care and Treatment

10 Permanent personal services	\$365,807	\$642,440
20 Current expenses	7,500	7,500
30 Equipment	25,514	-0-
60 Benefits	54,871	96,366
	\$453,692	\$746,306

Training and Development

10 Permanent personal services	\$53,993	\$117,173
20 Current expenses	2,500	-0-
30 Equipment	11,708	-0-
60 Benefits	8,099	17,576
	\$76,300	\$134,749

Administration

10 Permanent personal services	\$29,922	\$38,874
20 Current expenses	500	500
30 Equipment	7,550	-0-
60 Benefits	4,488	5,831
90 Tuition assistance	6,000	6,000
	\$48,460	\$51,205

Estimated Source of Funds for Laconia
State School and Training Center:

General Fund	\$612,381	\$979,540
Total	\$612,381	\$979,540

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Appropriation for Alterations, Renovations and Equipage of Certain Buildings at the Laconia State School and Training Center. The following sums are hereby appropriated to the Laconia state school and training center for the purposes specified:

I. Alterations, renovations and equipage for Dube to comply with intermediate care facilities, mental retardation \$95,000

II. Alterations, renovations and equipage for Dwinell to comply with intermediate care facilities, mental retardation 185,000

Total \$280,000

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Payments. The payment of principal and interest on bonds and notes authorized by section 3 of this act shall be made when due from the general funds of the state.

5 Effective Date. This act shall take effect July 1, 1977.

Sen. McLAUGHLIN: In essence what the amendment is doing is just relocating positions in the Laconia state school as per the recommendations of the people who run the school. They want to change certain people in certain categories. There is no change in the money factor whatsoever. It is upgrading the people that work there, it is doing work on the center up there, the Duby house and also DeWayne house. I think this is a bill that is badly needed. A lot of people came down and spoke in favor of the bill and we recommend its passage at this time.

Amendment adopted. Ordered to third reading.

SB 365, establishing a police and fire academy and making an appropriation therefor. Refer to Interim Office Space Study Committee. Senator Blaisdell for the committee.

Sen. BLAISDELL: This bill was introduced by Senator Sanborn and would establish a police and fire academy. I want to indicate to the Senate that no one quarreled with the bill. We did have some problems come up in senate finance mainly because of the location of the academy. It was the unanimous vote of Senate Finance Committee that the bill should be sent to office space study committee for interim study.

Adopted.

SB 361, establishing the NH civic and sports facilities authority as a body politic and corporate for the purpose of acquiring, constructing, furnishing, equipping, owning, improving, operating, maintaining and financing civic and sports facilities complexes, and making an appropriation therefor. Refer to Interim Capital Budget Study Committee. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: This bill is a very worthwhile bill. It is sponsored by Senator Sanborn and it establishes a New Hampshire civic and sports center. I think we all want these things in our State in the very near future. Unfortunately it came in late in the session. It is the idea of having private enterprise put money up and build something here somewhere, in some part of the state, southern part or someplace whereupon we can all go for sports in civic centers and enjoy the big league people coming to our great state of New Hampshire. However, we do not feel that we are ready to institute this at this present time and we are recommending that it go to a study committee on the capital budget so that at some time in the very near future it can be looked at, studied and brought out with more refinement to it so we can have this. The Senate committee was unanimous that it was a very fine bill but it requires more study at this time.

Adopted.

SB 241, establishing the southeast NH water supply project and making an appropriation therefor. Refer to Capital Budget Interim Study Committee.

Senator Sanborn for the committee.

Sen. SANBORN: This bill was one of the late-arriving bills and the committee on finance looked carefully at the bill and recognized that there is a distinct need for fresh-water supplies in the seacoast region but because of the large amount of bonding required here, just exactly where the facility might be established and so forth. The committee was unanimous in feeling that this bill needed more study and passed it on to the Capital Budget Committee for that study

during the interim with a guarantee that it will be coming back as soon as possible for actual passage by the House and Senate. We recommend that this go to interim study.

Adopted.

SB 306, authorizing the governor to enter into a contract with schools of dental medicine to guarantee openings for qualified NH students and making an appropriation therefor. Ought to pass. Senator Rock for the committee.

Sen. ROCK: As you know the state of New Hampshire is somewhat at a disadvantage for the higher education of some of our youths who chose careers in veterinary medicine, law, medicine and in dentistry. Our fine state institutions do not have those post-graduate courses and it is extremely difficult for a New Hampshire student wishing to further his education, to become a veterinarian, doctor or a dentist or in some cases even a lawyer. To secure admission, although we do now have the Franklin Pierce law school which has alleviated that problem somewhat. What this bill does is follow the path that we have established for veterinarian medicine, previously with Vermont for medical students who would otherwise not be able to gain admission into one of these schools. There is a great demand for entrance into dental, veterinarian and medical schools and because of the size of our state, the difficulties of our students to gain admission, this is a method by which a school would set aside a certain number of seats and allows the governor of the state to enter into a contract with that institution to pay so much towards their costs of keeping and maintaining that school so that there might be an opportunity for New Hampshire students to go. Now if the New Hampshire student doesn't go then you don't pay the money. It also allows the student, the state to provide funding for loans, the difference between the UNH state tuition and the tuition at the other school would be available through loans to the dental student. He would have to pay the loan back and it would be reduced slightly if he spent so many months practicing dentistry in New Hampshire. There is some deep question as to is there really an obligation on the part of the school to hold open 15 seats for New Hampshire students no matter what and I guess I would have to be honest with you and say no.

But at least it opens the door and in some sense hold out hope for the student of New Hampshire, that he would have a chance to gain entrance to dental school based on the same theory that we have used in veterinary medicine. Otherwise it is very difficult for them to get in.

Sen. TROWBRIDGE: I support the committee report but I do want to bring out a couple of things that are becoming obvious as we go down the pike here. We did this first with Dartmouth medical school and then we did it with Pennsylvania and Cornell veterinary, and we did that on the basis that our own kids couldn't get into the institution but it would be easier for them to get into the profession if we were to contract with the school. We have now had 3 or 4 years of operation under those agreements with the schools. It turns out, nothing we do here makes it any easier for New Hampshire students to get into the veterinary school. They make their own—maybe Dartmouth has a little more sympathy for our students—but Cornell has their own obligations to the state of New York. What it does mean is if a New Hampshire student applies and they haven't filled up the slot the school knows that there is a pretty good possibility that they are going to get paid. That is really what you are talking about. They won't have to put in scholarship funds for those seats. They know that they will be paid and the payback will come from the state of New Hampshire. So the financing of that thing is okay. Now we are getting to the point where every profession under the sun, how about my profession. You now have dentistry, medicine and veterinary medicine. I am not too sure—and you can use the same argument—it is tough to get into MIT.

Adopted. Ordered to third reading.

HB 406, authorizing license and permit for restaurants in Landaff. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: This bill allows the liquor commission the right to grant a license to a restaurant in Landaff, New Hampshire to serve drinks. This is a dry town. There is a petition from 173 people in town for this and there is only about 200 on the checklist. The restaurant actually isn't in the village it is right on the edge of the town; partly in the town of Lisbon. Just to make sure that that is what they wanted, I checked myself and everyone I talked to was in agreement with it. This

procedure has been followed in other towns, Newington and New Hampton have gone this route.

Sen. ROCK: What did you say, the town has voted dry in the past?

Sen. POULSEN: Yes, there was no referendum this year for this restaurant, they were too late with it. This is another route that they can follow, suggested by the liquor commission, and they followed this route.

Sen. ROCK: Aren't we on dangerous ground in attempting to effect, to take action contrary to what the town has voted in the past?

Sen. POULSEN: I thought so but on receipt of the petition which was like 7/8's of the checklist, all in favor of it, and then personal telephone calls, I am sure the people want it although to me it is abrogation of the system we ordinarily follow.

Sen. ROCK: But 7/8's agreed?

Sen. POULSEN: Yes.

Sen. FENNELLY: At the present time the town of Landaff is a dry town and there was no referendum pertaining to have the people have malt beverages?

Sen. POULSEN: The people seemed willing to go this route senator. To the point of signing a petition that was circulated by I presume the restaurant owner and he captured almost the whole town on the petition.

Sen. FENNELLY: I guess the big booze got us again. I am very surprised that HB 406 went to administrative affairs. I thought that all bills pertaining to liquor to a great degree would go to ways and means. I am perturbed that signatures do not represent people, and I always thought in the state of New Hampshire, as far as my knowledge goes, to make a town wet or dry that people would vote on it. I am surprised that legislation like this would come in. I can't see why the restaurant owners wouldn't waive say till November to have it on the referendum and I am opposed to this bill.

Sen. BOSSIE: Senator I have heard that Landaff is part of Vermont, is that true?

Sen. LAMONTAGNE: Senator I get the impression that this was a first time deal.

Sen. POULSEN: The only town that I am aware of when the town of Barre wanted to go wet they in the last election had with referendum they decided that they would sell beer in the town of Barrington. I have always been under the impression that the town would decide on the referendum whether to

do wet or dry. This is the first time that it has come to my attention that we can get a liquor license in this way.

Sen. FENNELLY: Isn't the town of Newington dry?

Sen. POULSEN: I don't think so, Flagstone's restaurant is there and they hold a class A restaurant license.

Sen. FENNELLY: However, isn't the town still voting dry?

Sen. POULSEN: Yes, I think it is.

Sen. ROCK: I am sure you are in favor of the home rule concept are you not?

Sen. POULSEN: I am.

Sen. ROCK: And that an overwhelming amount of the people of the town requested this? In a sense expressing their home desires?

Sen. FENNELLY: Yes I understand—let him vote for it then.

Sen. ROCK: Did one single person from the town of Landaff contact you and ask you to oppose this bill?

Sen. POULSEN: No. Nobody asked me to support this bill either.

Sen. BROWN: Isn't it true that the town fathers wanted it on the ballot and they went so far as to come down and see the Secretary of State? And the Secretary would not allow it because the time had gone by?

Sen. POULSEN: That is exactly right I forgot to mention that but they were just a day or two late to get it on the ballot.

Sen. BROWN: Because of that wasn't a poll taken and 162 citizens of the town and 119 of those citizens were in favor of it?

Sen. POULSEN: Yes.

Sen. BROWN: In your opinion are we setting a precedent because there are two other towns Newington and New Hampton who did the same thing?

Sen. POULSEN: I am sure it is not a precedent because the other towns went the same route and have had no trouble whatsoever.

Sen. BOSSIE: If there are 119 out of 162 who are in favor of this what is so wrong about amending the bill to have a vote. Let them have a special town meeting and let them vote like everybody else does.

Sen. POULSEN: I would say senator that it would be quite expensive for the town and if there were any fear that the

town wasn't pleased with this I would be happy to suggest that. But they seem to want this.

Sen. PRESTON: You mentioned that it would be rather expensive to have a referendum vote in that town but could you just add one more question to the questionnaire they are already getting as a result of a vote we took here just last week?

Sen. POULSEN: No.

Adopted. Ordered to third reading.

HB 593, permitting a licensee or a holder of an "on sale" permit to sell at another location under certain conditions. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This is another booze bill and it is another special license and what it does—under the present law, a non-profit organization can serve liquor at a public building at a public gathering and pay a \$10.00 fee and operate under the rules and regulations promulgated by the New Hampshire state liquor commission. If a caterer or a restaurateur for an organization wants to cater and serve liquor in a public place he has to follow the same rules and regulations that are promulgated by the liquor commission and he has to pay a fee of \$25 for each day.

Sen. : What you are saying is if a caterer is going to put on an affair, say a picnic, and decides to get a special license that particular day the caterer can charge for the drinks. He pays \$35 for a special license per day from the liquor commission and the rental of the hall for which he is going to have for the wedding and so forth and he can sell the drinks and he can make a profit on the drinks, is that true?

Sen. BROWN: It is a profit organization, they are in business to make a profit, the answer is yes.

Sen. SANBORN: Under the present law only non-profit organizations, if a caterer decides to have it at the Elks the Elks usually will control the bar and sell the drinks. The caterer is not allowed to sell the drinks at the present time. He can do the catering but has nothing to do with liquor. So basically what this bill will do is give him the right if it is in a non-profit organization club to compete actually with that club for the drinking dollar.

Sen. BROWN: This does not apply to non-profit organiza-

tions the \$25 fee and allowing this particular license. If the caterer or the restaurateur does not have adequate quarters large enough to hold an event for any group, not necessarily non-profit, and they rent a public building, they can hire him to come to the public building because it is off his regular premises if it is approved by the liquor commission and for a fee of \$25.

Sen. ROCK: If I have a lounge and a restaurant now, profit and an on sale liquor license and I do catering on the side in my restaurant and I am going to do a wedding at a church hall because I don't have a hall big enough and I move my operation over to the church hall do I use my regular on sale permit or do I have to get the new permit?

Sen. BROWN: If this bill goes through you will be able to do it providing you follow their criteria. You pay one fee \$25.

Sen. ROCK: And I do this every weekend, how many permits do I have to buy?

Sen. BROWN: One for each day.

Senator Bergeron moved that HB 593 be referred to the committee on Ways and Means for interim study.

Senator Rock moved that HB 593 be made a special order for Tuesday, May 24, at 3:01 p.m.

Adopted.

HB 761, relative to the destruction of certain papers in the department of labor. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This bill was requested by the department of labor. At the present time they have to keep all documents for a period of ten years. This bill would allow them that once the documents are of no further use to the state or department, they will keep them one more year and then dispose of them. It varies depending upon the documents, 9 years to 3 years.

Adopted. Ordered to third reading.

HB 783, requiring the labor commissioner to issue a decision in a wage claim hearing within 30 days of the hearing. Ought to pass. Senator Healy for the committee.

Sen. HEALY: Thank you Mr. Chairman. This is another

one of those labor department bills and is one of those house-cleaning bills. All this material on hearings has been piling up and they would like to get rid of this stuff. After claims have been settled and things are favorable to both sides, these things have been stocked away and it is time to clean them up. They would like to get rid of these.

Adopted. Ordered to third reading.

HB 784, relative to the payment of liquidated damages by an employer for failure to pay back wages. Inexpedient to legislate. Senator Poulsen for the committee.

Sen. POULSEN: If there is a wage claim, the employer has to pay back to the employee at the end of 30 days the amount due him. If he doesn't there is a 10% of the amount due him each day except Sundays and holidays until the total amount is due. If this bill becomes due, this penalty would become a bill collector's instrument for the commissioner of labor. The money would go to him instead of the employee. He would be charging something like 2500% interest which I think is a fairly good rate. I think this is punitive and maybe has some logic but to have the rate of interest go back to the commissioner of labor is a bit preposterous. The committee voted that it was inexpedient.

Sen. POULSEN: Senator what is the rate of compliance now with employers that are failing to pay back wages? How long does it take them to do it?

Sen. HEALY: This would be for a recalcitrant employer who wouldn't pay what he had been adjudged in in a hearing and everything else and had 30 days. This becomes a punitive to make him pay the employee what is due him.

Sen. POULSEN: How many instances do we have pending now before the department that haven't complied with the orders?

Sen. HEALY: I haven't heard of any and there was no testimony given to that.

Sen. POULSEN: Wasn't the introduction of the bill brought about because they were having a problem with employers that weren't paying back wages?

Sen. HEALY: If that were so why do they want the money themselves instead of the employee who it is being given to now?

Sen. POULSEN: Wouldn't the commissioner then turn it over to the employee?

Sen. HEALY: No.

Sen. POULSEN: Now you are saying the employer has to pay directly to the employee under an order of the commissioner of labor? If this bill is passed the commissioner would collect those wages and would not give them to the employee?

Sen. HEALY: If this bill were passed the commissioner would get the 10% penalty accrued but the employee would get the wages due him.

Senator Downing moved that HB 784 be made a special order for Tuesday, May 24 at 3:02 p.m.

Adopted.

HB 495, relative to a charge for checks returned to a city or town as uncollectible. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill enables a municipality to charge a \$5 fee and any costs in collecting the amounts of money due it for taxes and other fees in the town.

Adopted. Ordered to third reading.

HB 91, relative to assessing a charge for checks returned to all state agencies. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This request has been requested by the secretary of state's office for any check returned as uncollectible, the agency shall charge a \$5 fee plus all protest and bank fees to collect the monies.

Adopted. Ordered to third reading.

HB 463, increasing the amount of homestead right. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: The figure of \$2500 on the homestead right has been on the books since 1973. This raises it to \$4000 of that worth it also is in keeping with about 33% cost of living raise we have noted since that 1973 date. Just to make it clear

that anybody with any security interest comes first, first mortgages, second mortgages, third mortgages, Senator Bossie, and the plumbers electricians, carpenters, municipal taxes and if by any chance there is anything left, if a couple of a person has endured traumatic, difficult and horrendous circumstances, they are entitled up to \$4000 under this bill.

Sen. BOSSIE: Senator I really didn't hear or comprehend the reason why we should up it from \$2500 to \$4000.

Sen. HANCOCK: Well, according to the sponsor he felt that times dictated that the cost of living, consumer price index had risen about 33% and this was about a 33% increase.

Senator Bossie moved that HB 463 be indefinitely postponed.

Sen. BOSSIE: To be consistent, Mr. President, the purpose of homesteading exemption historically has been that of a sacred sort of thing where there are certain kinds of things that are inviable that wouldn't be sold off because creditors are forcing the issue. As time progressed the legislature in its wisdom added on other things like the first \$500 of household furniture, your business tools up to \$500 etc. Basically, I have no problem with homesteading exemptions as such, I did oppose the one on mobile homes and I still oppose it, I think it is ridiculous. So here we go. We are going to give them \$2500 and we're going to up the ones for regular people to \$4000. Let me tell you the significance of it. It is \$4000 for each of the owners so that if, say we had a piece of property that the 24 of us in this senate owned jointly, we would have 4 times 4, we would have \$96,000 of exempt property and that is the name of the game. If you and your wife and your spouse have property together it would be \$8000. Now what is so wrong with paying the debts. If you go bankrupt and you may, and you pay off your first and second mortgage, you pay off your mechanic liens and that is the only other thing that would have priority and the lawyer (who would come first) why in the world would you want to have all this additional money? There has been nothing that has been said today that would justify the increasing of this figure from \$2500 to \$4000.

Sen. BROWN: This subject seems to be somewhat familiar not in this session though. Do you remember when we were in the Nixon traveling circus in the 73 session. Didn't a bill very

similar to this come up in Nashua and I believe that the good senator from Newport was explaining to the senate and before he got through he owed me \$20,000?

Sen. BOSSIE: I wouldn't doubt it and in those days it was to raise it \$2000 to \$2500.

Sen. BROWN: It seems to me that we raised it then.

Sen. BOSSIE: I am sure this is a legal assistance bill. Be a deadbeat, be anything you want because you don't have to bother paying anybody because you have all these exemptions.

Sen. BRADLEY: I would like to ask you Senator Bossie, about your example of the 24 of us owning some property jointly. Now to be accurate, the 24 of us would have to live in that property.

Sen. BOSSIE: To be a homesteader, we would all have to live very close.

Sen. BRADLEY: Won't you agree with me that that would be a very unlikely situation?

Sen. BOSSIE: Yes, I am being very facetious however I wasn't being facetious when I said that two spouses who live together will have \$8000 and there are a lot of places that are not going to be worth much more than \$10,000 or \$20,000. And if it is up to the good senator from Concord pretty soon we are going to have the mobile homes up to \$4000.

Senator Lamontagne moved that HB 463 be laid on the table.

Adopted.

HB 713, amending the title of RSA 126. Senator Hancock for the committee.

Adopted. Ordered to third reading.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn in honor of Professor Keith Polk and the members of the Collegium

from the University of New Hampshire, until Wednesday, May 18 at 2:00 p.m.

Adopted.

LATE SESSION
Third Reading and Final Passage

SB 148, continuing the public defender system in Merrimack and Hillsborough counties for 2 years and extending the same program to Rockingham county.

SB 50, relative to restructuring the public utilities commission and making an appropriation therefor.

SB 321, establishing the office of state negotiations.

SB 157, relative to regulation of carnival amusement equipment by the division of safety services.

SB 200, to create a state district court system for Belknap, Carroll and Grafton counties with full time judges, clerks and other personnel as state supported courts and making an appropriation therefor.

SB 303, establishing a department of corrections merging therein the state prison, the youth development center, the department of probation and the board and department of parole.

SB 173, establishing the NH municipal bond bank as a public body corporate and politic for the purpose of facilitating the borrowing of money by counties, cities, towns and districts and making an appropriation therefor.

SB 216, providing for the replacement of the Cannon Mountain aerial tramway; making an appropriation therefor and, establishing a special account for the income from tramway service charges for operating costs and amortization of the appropriation.

SB 189, establishing a coastal resources management program and making an appropriation therefor.

SB 347, providing for additional staff and upgrading certain facilities at Laconia state school and training center and making an appropriation therefor.

SB 306, authorizing the governor to enter into a contract with schools of dental medicine to guarantee openings for qualified NH students and making an appropriation therefor.

HB 406, authorizing license and permit for restaurants in Landaff.

HB 761, relative to the destruction of certain papers in the department of labor.

HB 783, requiring the labor commissioner to issue a decision in a wage claim hearing within 30 days of the hearing.

HB 495, relative to a charge for checks returned to a city or town as uncollectible.

HB 91, relative to assessing a charge for checks returned to all state agencies.

HB 713, amending the title of RSA 126.

Adopted.

Senator Fennelly moved to adjourn at 5:25 p.m.

Adopted.

Wednesday, May 18

(Senator Saggiotes in the chair.)

The Senate met at 2:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Oh Lord, grant us the ability that we may say and do the correct things today. Help us to enter the hearts and minds of each one present. Give us a quickness of mind and tongue to pass on little kindnesses to each other and grant that we all can receive them with gracious thankfulness.

Also give us a quick perception of the feelings and needs of others and make us eager to help each other through the workings of this day.

We thank thee.

Amen

Senator Bergeron led the Pledge of Allegiance.

INTRODUCTION OF GUESTS ENROLLED BILLS AMENDMENT

HB 324, relative to the taking of bobcat and fisher.

Senator Bergeron for the committee.

Enrolled Amendment to HB 324

Amend section 3 of the bill by striking out lines 1 through 3 and inserting in place thereof the following:

3 Dog Training. Amend RSA 207:12-a by inserting after paragraph IV the following new paragraph:

V. During the moratorium on the taking of a bobcat and fishers any

Amendment adopted.

HOUSE MESSAGE
HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 217, 1006, 602, 1016, 1124, 89, 199, 1128, 1148, 497, 978, 592, 455, 302, 228, 575, 261, 979, 542, 603, 149, 969, 870, 427, 384, 591, 216, 439, 541, 270 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 217, relative to tuition for foster children. To Education.

HB 1006, establishing Merrimack valley college as a fourth school in the university system. To Education.

HB 602, establishing an office of health planning and development and making an appropriation therefor. To Executive Departments.

HB 1016, establishing procedures for the periodic termination, review and renewal of state agencies and programs. To Executive Departments.

HB 1124, relative to replacing the governor's committee on employment of the handicapped with the governor's commission for the handicapped. To Executive Departments.

HB 89, relative to the licensing process and license fees for

hospitals and medical institutions or facilities. To Public Institutions.

HB 199, relative to the licensure of occupational therapists. To Public Institutions.

HB 1128, relative to child support enforcement. To Judiciary.

HB 1148, relative to state public assistance programs. To Public Institutions.

HB 497, relative to the distribution of dog license fees and making an appropriation therefor. To Recreation.

HB 978, requiring that any state owned property leased to private parties shall comply with local zoning ordinances. To Executive Departments.

HB 592, relative to the fee for obtaining a license to use radioactive materials and creating the position of radiation specialist and making an appropriation therefor. To Public Institutions.

HB 455, providing for a special decal on motor vehicle number plates for a person with a walking disability. To Transportation.

HB 302, to provide for interest on tax refunds for all taxes administered by the department of revenue administration. To Ways and Means.

HB 228, imposing an additional one cent tax on motor fuel and fuel other than motor fuel, and dedicating 95 percent of the revenue to town and cities. To Ways and Means.

HB 575, increasing the appropriation from \$6,000 to \$10,000 for a continuing boat tax fund administered by the department of revenue administration. To Recreation.

HB 261, to reimburse the town of Dummer for revenue lost due to the taking of Pontook dam and making an appropriation therefor. To Recreation.

HB 979, relative to lighting the state house dome from sunset to 2:00 a.m. To Administrative Affairs.

HB 542, relative to a state-wide solid waste management program. To Environment.

HB 603, establishing procedures to review developments of regional impact. To Executive Departments.

HB 149, increasing fees for lobster, clam and oyster licenses, providing a penalty for misuse of lobster and clam licenses. To Recreation.

HB 969, establishing a bureau of community living in the

office of the director of the division of mental health. To Public Institutions.

HB 870, to provide for the use of interpreters for the deaf for all administrative and judicial proceedings in which deaf persons are involved. To Judiciary.

HB 427, revising the law relative to lobbyists. To Administrative Affairs.

HB 384, to reclassify a certain section of highway in the town of North Hampton. To Transportation.

HB 591, providing for the restructuring of the Hooksett liquor stores and making an appropriation therefor and repealing the authorization for an addition to the Concord store. To Ways and Means.

HB 216, authorizing the sale of bonds to cover the local share of construction costs on the Winnepesaukee river basin project. To Executive Departments.

HB 439, authorizing the water supply and pollution control commission to implement the provisions of RSA 146-A relative to oil spillage in public waters and making an appropriation therefor. To Environment.

HB 541, establishing a Livermore Falls Gorge study commission and making an appropriation therefor. To Recreation and Development.

HB 270, relative to certain capital improvement appropriations for the aeronautic commission and the water resources board. To Capital Budget.

Senator Rock served notice of reconsideration of **SB 335**.

COMMITTEE REPORTS

HB 451, relative to the authority of the commissioner of revenue administration to collect the business profits tax. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill limits the power of the commissioner of revenue administration to collect the business profits tax by providing that the business profits tax shall not take precedence over recorded mortgages. A case was cited by an attorney of a savings bank in Tilton where notices were served for foreclosure to collect business profits taxes owed and they were given precedence over the first mortgages held by the bank. This merely respects the right of those recorded

mortgages in existence at the registry. Presumably the business profits taxes that were owed could be just on the business itself and the bank that has the rights to the land and buildings underneath could be disenfranchised of that. So this corrects that problem.

Adopted. Ordered to third reading.

SB 366, establishing a 5 member oversight committee to recodify the election laws and making an appropriation therefor. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: This bill establishes a committee of five. Of the five the secretary of state is one, the attorney general or his designee is one, and three citizens at large chosen by the secretary of state to recodify the election laws of the state of New Hampshire. When the bill had its first hearing there was not too much information available at the time. However, we had a more or less second hearing yesterday with the secretary of state and Tom Rath from the attorney general's office there to explain what was actually requested in this bill since in effect this bill came out of the secretary of state's office. As you remember, some years ago the criminal code of the state of New Hampshire went through this same process and the feeling of Tom Rath was that it was time that the election laws in the state of New Hampshire went through the same process. As it is now we have many chapters of elections in the state and some of them refer to different types of elections. You have about 4 types of elections here in the state of New Hampshire. Whereas a rule for a moderator we'll say in the general election in the spring should be the same as for the general election that are held in November. But in many cases because of various mandated approaches that have been taken to the election laws they don't end up that way. There are variations in what the laws say relative to the various officials and so forth in different sections of the law for a different type of election. And they believe that it is time that all the election laws were brought together, recodified and set up in one, standard, basic way so that election officials will know what he is doing in each type of election and he wouldn't have to be changing his tune just because it was a presidential primary, municipal election, a fall primary or the November election. That is what this bill does—it establishes

\$50,000 to be used not by the committee, but by consultants and so forth to do most of this work and perhaps one good lawyer such as Lawyer Snow to take charge of it and get the job done well. This bill is long overdue and we recommend the passage of this bill.

Adopted. Ordered to third reading.

SB 191, relative to vested rights and vested deferred retirement benefits under the New Hampshire retirement system and making an appropriation therefor. Inexpedient to legislate—Senator Trowbridge for the committee.

Sen. TROWBRIDGE: This will be brought up under SB 236 at the end of the senate finance calendar. We have amalgamated SB 191, 192 and 236 in that bill and that amendment is covered on page 18.

Adopted.

SB 192, relative to service retirement benefits under the New Hampshire retirement system and making an appropriation therefor. Inexpedient to legislate Senator Trowbridge for the committee.

Adopted.

SB 235, establishing a study commission on child abuse and neglect and making an appropriation therefor. Inexpedient to legislate. Senator Trowbridge for the committee.

Senator Trowbridge moved that **SB 235** be made a special order for Thursday, May 19 at 1:02 p.m.

Adopted.

SB 360, relative to state payment for neglected children who are placed in certain kinds of foster care and making an appropriation therefor. Inexpedient to legislate. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: This bill was introduced by the department of welfare and there are situations where you have

children who are in what you call the AFDC foster care class. They are put out to group homes. At the present time the communities, towns and cities, pay for the cost of these group homes. Under title 20 of the Social Security Act you could have the state pick up a 25% share and the federal government would pick up another 75% share and the towns and cities would be relieved. The cost of this would be about \$230,000 per year. In investigating the situation, the problem is that title 20 has a cap on it. There isn't any more than a certain amount of funds in that whole allotment to New Hampshire. It is not like the situation where if we put up the money we can get an open-ended appropriation from the federal government. If we put up this money we won't get any more out of titleXX than we get now. So that there is no winning on this project except that it would of course help the cities and towns. The only reason that the Welfare Department wanted to do this was that they have occasionally had some battles with towns and counties who come on after one year, from getting the money to support these children. It was a very difficult question in that we now have about \$5 million more of requests out of titleXX money than we can possibly deal with and this kind of foster child care has been dealt with this way for quite a while with relative success and poses a question as to whether or not you have enough money to deal with. If you were to pass SB 360 you would be automatically draining the Title XX monies that can go to other programs which are also underfunded as well. Our judgment at the end is that it is just as well to leave the status quo on this one in that we can't, we don't know what we are competing against and the false saving would not be the equivalent of what we would be able to do with the other titleXX money. It is not as if it is a bad bill at all. It is one in which we are running against the costs of government and what we have to deal with. We had no opposition and very little appearance on this bill. The only person who talked to the bill was the Department of Welfare and their primary concern was not the cost sharing but the fact that they would like some way to be able to compel the cities and towns to pay their share. It didn't come out as one of those bills that has a lot of push behind it.

Sen. BLAISDELL: The city of Manchester and Nashua did come to speak and I want to be sure that you knew it—you were out of the room at the time.

Sen. TROWBRIDGE: I talked to those gentlemen after-

wards and they would like it but when they heard the other part of it they said well this is not really a big high priority.

Senator Bossie moved that **SB 360** be made a special order for Thursday, May 19, at 1:03 p.m.

Division vote: 15 senators voted yea. 5 senators voted **nay**.
Adopted.

SB 236, relative to a single retirement rate. Ought to pass with amendment. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: This is a rather important bill and I need your attention. Looking at the amendment you could read it for about 2 or 3 days and you will not understand it. It is no reflection on your intellectual capability it is a reflection on the retirement system and how it operates. I think I can explain it too you if you will give me a little time because I think it is important and you're going to get a lot of calls on this. I have a written piece on this as well that you can take with you so that it will remind you of the salient portions of this bill. Up until 1973 all the state employees and teachers received the same benefits after 30 years of service. If they worked for 30 years of service, the 31st year they got one-half credit, not full-credit for the year in the retirement system. They also pay full payment into the retirement system, their contribution, that is what it was until 1973. It also, right now, the state employees have 15 years in order to qualify, the teachers have 10 years in order to qualify, and way back when and long before I knew anything about retirement systems, there was a different rate for women than there was for men, on the basis that women live longer and therefore actuarially, it made a lot of sense but these things are going by the board. SB 191, 192 and 236 were filed, one saying we are going to take care of the vesting and equalize it, one saying we are going to take care of the servicing requirement and equalize it, and one to take care of the single rate. That is a gross oversimplification of those three bills but it will do for now. Now in 1973 the teachers came in and they said a lot of us worked longer than thirty years and we want to get full service credit for our years over 30. It was my first term in this position and I had not completely learned the rules of the game at that time it was in another bill as well that was very desirable and that bill passed. During the discussion on that bill the state

employees and no one else got up to say, hey if you are doing something for the teachers, and not doing it for the state employees. That bill only gave teachers an extra credit. Naturally, within 90 days after that passed the state employees were back in, you have given this to the teachers and now you have to give it to us. It was about that time that I had been handed the retirement system, how I inherited this I will never know. I began to see that the normal technique had been used on us which is one leg up for one and then the other guys go with their leg up. I caught on and said oh, this is terrible, we should not have done that. We made a mistake in 1973. But now the question is how do you get back to equity, because there is no question, you should not be giving teachers more credits than state employees and vice versa. Everybody agrees to that, the teachers, the state employees. They were all talking about how much credit you get after 30 years of service. Last session we had a similar bill trying to resolve it and which of course the resolution was going to be let the state employees get full credit after 30 years of service. And we did an actuarial study on that and the costs were enormous if we added everything on. At that time I began to talk to the state employees association, to the teachers and said well look, the 30 years of service is not the only issue here, the issue is that if you come towards retirement age the state wants to reward you for your service but as you get into the over 60 when you can start retirement, are eligible for retirement, that is the point where if you are going to stay on and work you are being compensated for your full salary until a lot of people want to, on running pension plans, what you do is not award people to go right out to 87, you give them some incentive to make their retirement plan. Okay, so what we proposed two years ago is the same as we proposed now, was that when a person got over 60 years of age and was in state service, they would get $\frac{3}{4}$ credit for the service after 60 and they would pay only $\frac{3}{4}$ of their contribution. So they weren't paying more than they were getting. If you join state service at age 20 say, and you work 30 years you still are only 50 years old we would still give full-credit over 30 years up until you were 60. Because it is really that window where you begin to think about retirement where you care about this situation. That has the desirability of rewarding the longer term employee whereas the other formula is if you joined at 38 years of age, you can work till 70, and at the end of that you can get 2 years full credit at

age 68 and 69. So it was not fair to the longer person. The essential things in 236 which is a conglomeration of everything else, is that you work till age 60 and at that time everybody, teachers and state employees, everybody in group 1 goes on $\frac{3}{4}$ credit for the years thereafter, they pay only $\frac{3}{4}$ contribution, there is a single rate set between men and women and each group have 10 year vesting instead of having the employees at 15 and the teachers at 10. In my little piece here I said here that senate finance is no longer going to tolerate efforts by group 1 to obtain the better benefit at the expense of the other members of the group. This pulling yourself up by your bootstraps and then pulling the rest in after you has got to stop. Frankly, if this thing is unfair now to the state employees it was unfair the day it was passed. Those state employees could have stood up and said you can't give the teachers that without giving it to us. We did not hear that testimony then, nobody piped up, and I say we were suckered in to give what was really was beyond what we should have given to the teachers. The last issue involved was whether we get the retrospective back to 1973. Whether we try to cure the ills that were created in 1973. If we were to reduce the teacher's benefits for the last 4 years we would be taking away something that was on the books and in statute and would be truly retrospective. So we decided not to do that. By the same token if we were to reward the state employees with full credit for that year to make them equivalent with the teachers we would be adding a lot of expense and we would be in a way rewarding them for having stayed silent when the bill went through. So we decided that we would do neither one of those we would just start this thing prospectively—the teachers keep what they got, the employees stay where they were but from July 1 on everyone will be on the exact same basis hereafter because there seems to be no other way to make this thing come out fairly. There have been rumors that you will hear from state employees or teachers that we have cut their benefits by $\frac{3}{4}$. Not true. We have cut only the credit that they get for the last year's work from full to $\frac{3}{4}$. Remember 4 years ago they only got $\frac{1}{2}$ credit. They are a leg up if you take it on any kind of time span and the state employees are now equal. So I do not think that we are doing a disservice. As they work out to 30 to 36 years of service, a state employee will end up getting somewhere in the neighborhood of 67% of his highest annual pay. Plus the state employee gets social security until

65 when the offset occurs. The group 2 people get $\frac{3}{4}$ pay but they get no social security so these things are balanced and you can't rewrite the whole thing but we have done our level best and wrestle with this and come out with something that prospectively makes some sense. It makes no sense in my mind to give full credit for every year thereafter, no other pension plan that I know of gives full credit past the age of retirement. The idea of the age of retirement is that there is a window in which you say is it worthwhile for me to work or would I rather retire. The benefits of the system is that people begin to retire off. So that as an employer which we are, the state of New Hampshire, we can think about the teachers etc. but we have to think about the school districts who pay that cost, we have to think about the state which pays 40% of the teacher costs, we pay all the state employee costs of our employer contribution, there is a point at which our contribution should go down. And that is at age 60 and thereafter. I'll answer any questions and our recommendation is that that amendment which you will see says $\frac{1}{60}$ credit up to age 60 and $\frac{1}{80}$ th—that is the fraction that changes the $\frac{3}{4}$ percent. That is how it is mechanically done if you look on page 19 of the bill.

Sen. HEALY: Senator I realize that this is a very complicated bill and very difficult because over the years pensions have been quite a problem especially between firemen, teachers and policemen. I know in my city there has been quite a controversy, even the highway city workers too but I would like to ask you a question about discontinued service, interrupted service especially in the way of teachers. Let us assume that a teacher worked for a certain period of time and had to leave the service, interrupt the teaching structure period because of having a family etc. then they returned to school later on, some of them were still working—how would they prorate this, are they going to get good equal treatment like the rest of the teachers, or just how would they consider it?

Sen. TROWBRIDGE: That is in another part of the retirement statute, it is not affected one iota by this bill. This only deals with credit for years of service. There is another whole part of the statute that deals with interrupted service. In that they have the right to come back in after 6 years, there are rules for that, but it is not at all affected by this bill except for the fact if they are over 60 they are under this rule.

Sen. HEALY: They will get full payment for the time served as I understand you, they will be paid for their full years of service.

Sen. TROWBRIDGE: Every year of service up to age 60 they will get full credit whether it be 30 years or 35 years. Thereafter they will go on this $\frac{3}{4}$. I have to emphasize, before they were paying full contribution and were getting only $\frac{1}{2}$ credit that was in 1973. Now they are only getting $\frac{3}{4}$ credit but they are paying only $\frac{3}{4}$ contribution. That seems to make ultimate sense.

Sen. HEALY: You weren't questioned by the judges as to why they shouldn't come under a system like this by any chance?

Sen. TROWBRIDGE: This is group 1.

Sen. MONIER: I would just like to ask a couple of questions for the record. We are already getting calls. When we passed this 4 years ago they were getting 100% and then we dropped it to $\frac{1}{2}$ and now we are back to $\frac{3}{4}$.

Sen. TROWBRIDGE: You are wrong. Up till 1973 they got $\frac{1}{2}$ credit after the 30th year of service, they paid full contribution. In 1973 the teachers alone, eeked away the thing saying they get full-year's credit after 30 or forever. State employees did not get that benefit. After 4 years of that mistake we are backing down to $\frac{3}{4}$. But after 30 years a teacher can still get full credit if he is under the age of 60 which they never had before.

Sen. MONIER: Therefore there are two succinct statements about what we give which gives us the background to it, one is about the $\frac{1}{2}$ amount and they were paying full and vice versa on the teachers. Now today, is that everybody goes to one level . . .

Sen. TROWBRIDGE: Up to age 60 regardless of whether there is 30, 20 or 10 years or one year, up to age 60 they get full credit which they did not necessarily if a person joined let us say when they were 18 before they would go 30 years which would bring them to 48 and at that point it would go on $\frac{1}{2}$ credit. That seems silly because they are still in their prime working period so in many ways we are enhancing the deal to everyone by saying as long as you are in the prime work area which we say is up to 60 you are going to get full credit. It is only after 60 that you go into this $\frac{3}{4}$. And it doesn't matter if it is 30, or 20 years.

Sen. MONIER: So we are using the age of 60 as the breaking point.

Sen. TROWBRIDGE: The age of 60 as the breaking point and making it fair by asking them to contribute $\frac{3}{4}$ and they get $\frac{3}{4}$ and they used to get $\frac{1}{2}$.

Sen. MONIER: Would you believe though that there will be at least 2 groups and probably more who try to not understand this and try to turn it around so they will have some questions about this. Would you agree with me?

Sen. TROWBRIDGE: Well I think that the teachers are sitting there and saying we've got a good deal and we're going to run with that—you have to remember that the teachers are supported 40% by the state unlike the municipal employees and others so that we really should not have given that benefit. That was a mistake and we have to correct it. How do you do it fairly? And this is the fairest way that I can find.

Sen. MONIER: I would like to suggest that finance put a fact sheet on one side of the page with these kinds of things succinctly stated so that we have it and it is distributed to all the senators with these kinds of responses because I personally think you have come up with a very good solution.

Sen. BLAISDELL: For the record, there is nothing in this bill that says they must retire at age 60.

Sen. TROWBRIDGE: No. It has nothing to do with when they must retire. Equity is a big part of this system and you've got just as many state employees who are being discriminated against now as you have teachers. If you were to leave it the way it is now your calls would be from the state employees. It is either one way or the other.

Sen. HANCOCK: Just for the record, senator this does not take away from those teachers who have already received full credit?

Sen. TROWBRIDGE: No it doesn't. That was a temptation that we resisted.

Sen. HANCOCK: Would you give us the reaction of the state employee's association to this proposal.

Sen. TROWBRIDGE: The association is satisfied with this bill. They would have preferred to get full credit all the way down the pike for everyone.

Senator Blaisdell moved the previous question.
Adopted.

Amendment to **SB 236**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to a single retirement rate, service retirement benefits and vested rights under the New Hampshire retirement system.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Service Retirement Benefits. Amend RSA 100-A:5 (supp) as inserted by 1967, 134:1 as amended by striking out said section and inserting in place thereof the following:

100-A:5 Service Retirement Benefits.

I. Group I Members.

(a) Any group I member may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the filing thereof, he desires to be retired, provided the member at the time so specified for his retirement has attained age 60 and notwithstanding that during such period of notification he may have separated from service. Any group I member in service as an employee who attains age 70, except an elected or appointed official of the state, shall be retired forthwith or on the first day of the next following month. Any teacher member in group I who attains age 65 shall be retired at the end of the then ensuing school year, unless said member shall request an extension of service. For purposes of this section, a teacher member of group I who remains in service throughout a school year shall be deemed to be in service during July and August at the end of such school year. Extensions of service in the case of teachers shall be requested of the state board of education on the recommendation of the superintendent of schools. The extensions shall be granted on a year-to-year basis, and in no event beyond the member's attainment of age 70 or the school year in which he shall have attained age 70.

(b) Upon service retirement, an employee member of group I shall receive for his service prior to July 1, 1977, a service retirement allowance which will consist of: (1) a member an-

nunity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (2) a state annuity payable prior to his attainment of age 65 which, together with his member annuity, shall be equal to $1/60$ of his average final compensation multiplied by the number of years of his creditable service not in excess of 30 years, plus $1/120$ of such compensation multiplied by the number of years of his creditable service in excess of 30 years, plus a service retirement allowance for his service after July 1, 1977, which will consist of: (1) a member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (2) a state annuity payable prior to age 65 which, together with his member annuity, shall be equal to $1/60$ of his average final compensation multiplied by the number of years of his creditable service up to age 60, together with a state annuity which shall equal $1/80$ of his average final compensation multiplied by his years of creditable service after age 60. After his attainment of age 65, his state annuity shall be reduced by the sum of $1/120$ of his average final compensation not in excess of the applicable social security breakpoint for his service not in excess of 30 years prior to July 1, 1977, and $1/240$ of such average final compensation not in excess of the applicable social security breakpoint for his service prior to July 1, 1977, in excess of 30 years, plus a reduction in his state annuity for his service after age 60 equal to $1/160$ of such compensation not in excess of the applicable social security breakpoint; provided that such reduced retirement allowance, together with his primary insurance amount, shall not be less than $1/60$ of the member's average final compensation for his creditable service not in excess of 30 years prior to July 1, 1977, nor less than $1/80$ of the member's average final compensation for his creditable service after age 60. For the purposes of the above, social security breakpoint shall mean \$4,200 with respect to year year of prior service and shall mean the maximum amount of taxable wages under the federal insurance contributions act as from time to time in effect with respect to each year of membership service.

(c) Upon service retirement, a teacher member of group I shall receive for his service prior to July 1, 1977, a service retirement allowance which will consist of: (1) a member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (2) a state

annuity payable prior to his attainment of age 65 which, together with his member annuity, shall be equal to $1/60$ of his average final compensation multiplied by the number of years of his creditable service, plus his service retirement allowance for his service after July 1, 1977, which consist of: (1) a member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (2) a annuity payable prior to age 65 which, together with his member annuity, shall be equal to $1/60$ of his average final compensation multiplied by the number of years of his creditable service up to age 60, together with a state annuity which shall equal $1/80$ of his average final compensation multiplied by his years of creditable service after age 60. After his attainment of age 65, his state annuity shall be reduced by the sum of $1/120$ of his average final compensation not in excess of the applicable social security breakpoint for his service prior to July 1, 1977, plus a reduction in his state annuity for his service after age 60 equal to $1/120$ of such compensation not in excess of the applicable social security breakpoint; provided that no such reduction shall be made in respect to any teacher for his years of creditable service between July 1, 1945, and July 1, 1950, and for those years of creditable service between July 1, 1950, and July 1, 1957, with respect to which he did not elect a refund of past contributions under RSA 192:21, and further provided that such reduced retirement allowance, together with his primary insurance amount, shall not be less than $1/60$ of the member's average final compensation for his creditable service prior to July 1, 1977, nor less than $1/80$ of the member's average final compensation for his creditable service after age 60. For the purposes of the above, social security breakpoint shall mean \$4,200 with respect to each year of prior service and shall mean the maximum amount of taxable wages under the federal insurance contributions act as from time to time in effect with respect to each year of membership service.

3 Vested Deferred Benefits. Amend RSA 100-A:10 (supp) as inserted by 1967, 134:1 as amended, by striking out said section and inserting in place thereof the following:

100-A:10 Vested Deferred Retirement Benefit.

I. Group I Members.

(a) A group I member who has completed 10 years of creditable service and who, for reasons other than retirement or

death, ceases to be an employee or teacher may elect, in lieu of the refund of his accumulated contributions under RSA 100-A:11, on a form prescribed by the board of trustees for such purpose, to receive a vested deferred retirement allowance.

(b) Upon his attainment of age 60, a group I member who has made such election shall receive a vested deferred retirement allowance which shall consist of: (1) A member annuity which shall be the actuarial equivalent of his accumulated contributions on the date he attains age 60; and (2) a state annuity which, together with his member annuity, shall be equal to the service retirement allowance that would be payable to him after his attainment of age 60 on the basis of his average final compensation and creditable service at the time his service is terminated. Upon his attainment of age 65 such allowance shall be reduced in the same manner as a service allowance.

II. Group II Members.

(a) A group II member who has completed 10 years of creditable service and who, for reasons other than retirement or death, ceases to be a permanent policeman or permanent fireman may elect, in lieu of the refund of his accumulated contributions under RSA 100-A:11, on a form prescribed by the board of trustees for such purpose, to receive a vested deferred retirement allowance.

(b) Upon his attainment of age 45, provided he would then have completed 20 years of creditable service, otherwise the subsequent date on which such 20 years would have been completed, a group II member who has made such election shall commence to receive a vested deferred retirement allowance which shall consist of: (1) A member annuity which shall be the actuarial equivalent of his accumulated contributions on the date his retirement allowance commences; and (2) A state annuity which, together with his member annuity, shall be equal to a service retirement allowance based on the member's average final compensation and creditable service at the time his service is terminated.

4 Effective Date. This act shall take effect July 1, 1977.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Smith moved that the rules of the Senate be so far suspended as to allow the introduction of committee reports on HB 7, 1011, 868, 304 without proper notice of hearing or proper notice in the journal.

Adopted.

HB 7, increasing the number of resident New Hampshire members of the New England Board of Higher Education. Ought to pass with amendment. Senator Blaisdell for the committee.

Amendment to HB 7

Amend RSA 200-A:3 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

200-A:3 Membership of Board. The New England Board of Higher Education shall consist of 8 members. The governor shall appoint 6 resident members from New Hampshire as members of the New England Board of Higher Education. One of such resident members shall always be the chancellor of the university system, the second shall always be the president of the university of New Hampshire, the third shall be the president of Keene state college, the fourth shall be the president of Plymouth state college, the fifth shall be a member of the legislature of New Hampshire and the sixth shall be a citizen of the state designated by the governor as his responsible representative. The seventh and eighth member shall be representatives of the private colleges in New Hampshire and shall be designated by the New Hampshire College and University Council. The first appointment of the member who is a state legislator shall be for a term of 2 years, thereafter his term shall be for 4 years, provided that if said term said member shall cease to be a member of the legislature his term as a member of the New England Board of Higher Education shall terminate and the governor shall fill said vacancy in the same manner as above provided for appointment of the legislator member. The term of office of the sixth New Hampshire citizen member and the seventh and eighth members of the board who are representatives of private colleges shall be for

4 years and until their successor is appointed and qualified. The state legislator and the citizen member shall receive \$15 per day compensation for time actually spent in their work as a member of the New England Board of Higher Education, provided that the total for per diem compensation and expenses for the state legislator and the citizen member of the board shall not exceed the sum of \$500 during any one fiscal year. All expenses and per diem compensation shall be audited by the comptroller as expenses of other employees are audited, and shall be a charge against any appropriation provided for this purpose.

Sen. BLAISDELL: This bill was represented by Representative Happy Jack Chandler. He admitted before the committee that it got a little bit out of hand but I think we have come up with a compromise. You'll find the amendment on this bill of page 17 of today's Journal. It started out by having us increase the number of resident New Hampshire members on the New England Board of Education by adding the chancellor of the university system. The committee along with the amendment, amended the bill so that it would be the chancellor of the university as one member of the board, three members which would consist of the University of New Hampshire president, Keene State College president, Plymouth State College president, would be 4, one public member on the board, one legislator which would be six and the other amendment that you'll see on page 17 addresses itself to the private colleges in the state of New Hampshire which would be the 7th and 8th members representatives of private colleges and it shall be designated by the New Hampshire college and university council. It was unanimously voted by the education committee that this ought to pass. What it will do is to bring us up to eight members. Most of the other states in this New England compact have 8 members.

Sen. MONIER: I would like to rise in support of the committee report. Both Senator Jacobson and I appeared before the committee on this bill. In the previous case we had 4 members I believe. You did not have guaranteed representation of private colleges. You had instead guaranteed representation of the state system, representation of the legislature and representation I guess you would call it, of the residents of the state, which allowed the governor or whoever was making that appointment, to select one from the private colleges

which he normally did. This amendment and it is now amended, provides us with a broad scope of representation on that bill and I strongly support it.

Amendment adopted. Ordered to third reading.

HB 1011, relative to the approval of the Dover school district budget. Ought to pass. Senator Blaisdell for the committee.

Sen. BLAISDELL: This bill was introduced by Representative Connors of District 18 and it is relative to the approval of the Dover school district budget. This bill simply amends the Dover school charter to give the Dover school authority final authority of the budget. We had the Mayor pro tem of Dover come in and speak to the committee, we had the chairman of the school board. I think the most important part of this bill is that a referendum is required for the provisions in this bill to take effect. The committee brought this bill out as ought to pass unanimously.

Sen. BROWN: Senator, it seems to me that when the city manager was speaking on this, there were a few other referendum questions to be on the ballot at about the same time. Did he enumerate how many more there were?

Sen. BLAISDELL: There was quite a few coming up but this would be no problem—that they could fix this up so the people wouldn't be confused in Dover. You would have to talk to Senator Fennelly about that.

Sen. BROWN: Was it in the vicinity of 47 other referendum items to be on the same ballot?

Sen. BLAISDELL: You are 5 high, I think it was 42.

Sen. BROWN: Were some of those going to be relative to the city government—they didn't know if there would be a city government or even a city of Dover left when they got through. Depending on how people voted.

Sen. BLAISDELL: They have had some problems the last four years senator.

Sen. BROWN: Did they have anything in there about the city of Dover being annexed by Rollingsford or the state of Maine?

Sen. BLAISDELL: They didn't bring that out in the hearing—it might come up from the senator in Dover.

Sen. SANBORN: Personally, I realize the referendum and a majority of the time I have supported any bill that is requested on referendum by the people. However I do feel that this is a very bad precedent. It is being established here where a school board can establish a budget and be practically autonomous in that budget. There is no way that the city is going to go to the people as they do in a town at the school district meeting and try to get the approval of the budget. But here the budget of the city has established under this, and as soon as they establish that budget there is no restraint on it whatsoever. I think it is a very, very bad policy. If Dover wants it so be it but I feel that it is a bad idea to be establishing.

Division vote: 12 senators voted yea. 8 senators voted nay.
Adopted. Ordered to third reading.

HB 868, relative to bilingual education. Ought to pass.
Senator Sanborn for the committee.

Sen. SANBORN: All this bill does is clean up a section of RSA. At present it calls for the establishment of bilingual education in our schools on a experimental basis. All this bill does is remove the section there that it would be on an experimental basis. Many of our schools now have bilingual education in the schools. They have found to be a good thing and I was surprised that one of the at the hearing, programs is Portuguese. I didn't realize that we had a Portuguese community in our state but we do. I was quite interested to find this out. I thought it would be basically French but no there is Portuguese and Spanish. I think it is time that we removed the idea that it be on an experimental basis since we do have these people in the state that are interested in this education. I urge the passage of the bill.

Adopted. Ordered to third reading.

HB 304, providing for the establishment of loan fund revolving account which meet certain federal requirements. Ought to pass. Senator Provost for the committee.

Sen. PROVOST: Mr. President, this bill is a housekeeping measure. It was recommended by the controllers office and introduced by the Department of Education. It does not carry

any appropriation. This bill authorizes the state board of education to establish and administer a loan program from accounts approved by the governor and council for students enrolled in the technical institute and vocational technical colleges. It provides for a separate special loan on account for each institution that is complying with the requirement for receiving federal funds for education for the national direct student loan program. The committee was unanimous in ought to pass.

Adopted. Ordered to third reading.

Senator Blaisdell moved that **SB 286** be taken from the table.

Sen. BLAISDELL: This bill was introduced by Senator Brown. We tabled it yesterday because of a slight word change in an amendment that Senator McLaughlin will be presenting to you. The proposed changes introduced by this bill will be basically word changes needed to enhance legal interpretations and enforcement etc., to clarify specific action which can be taken by law enforcement officers and the pharmacy commission and its representatives. Other word changes will modernize New Hampshire law and in some cases bring New Hampshire law in line with federal standards. At the present time the New Hampshire pharmacy commission is a regulatory board without much authority for the enforcement of RSA 318 and we believe that this bill is in the best interests of the public health and safety in the state of New Hampshire. I would defer to Senator McLaughlin for the amendment that has just been passed out.

Adopted.

SB 286, revising the pharmacy laws.

Senator McLaughlin moved an amendment to **SB 286**.

Amendment to **SB 286**

Amend RSA 318:41, as inserted by section 29 of the bill by striking out same and inserting in place thereof the following:

381:41 Books and Equipment. Each pharmacy shall be

equipped with those pharmaceutical utensils, technical equipment and professional references which the commission deems necessary for the safe, effective practice of pharmacy. In addition, no pharmacy shall be granted an original permit after December 31, 1977 unless it has an adequate burglar alarm system installed and operational and no pharmacy permit shall be issued or renewed after December 31, 1979 unless the pharmacy has an adequate burglar alarm installed and operational. The prescribed equipment and references shall be open to the inspection of the commission and its representatives. No pharmacy permit shall be issued or renewed until the pharmacy complies with the provisions of this section and the commission may suspend or revoke a pharmacy permit whenever the pharmaceutical utensils or equipment or the professional references fails to conform with the prescribed list. Institutional pharmacies are excluded from the provisions of this section in regards to burglar systems.

Sen. McLAUGHLIN: The amendment has only one change, the last sentence, nothing else whatsoever "institutional pharmacies are excluded from the provisions of this section in regards to burglar systems." was not intended when the original bill was put together, would be included and when they realized what it was they asked for it to be changed and that is the only change in the amendment whatsoever. We recommend passage of this amendment.

Sen. BROWN: What is the reason given for wanting that sentence? The reason I ask you is that a member of the board who is head pharmacist at Mary Hitchcock was the prime motivator of the bill?

Sen. McLAUGHLIN: They felt I guess the board after reconsidering at that time felt that the hospitals are always being cared for at all times, somebody is up there, they shouldn't have to have a burglar alarm system going on and off every time a person leaves there for a few minutes.

Sen. BROWN: In other words they feel the controls are already there.

Sen. McLAUGHLIN: Correct.

Sen. JACOBSON: Senator as I read this, the bill requires all promisees to install a burglar system?

Sen. McLAUGHLIN: That is correct.

Sen. JACOBSON: Was there any testimony at committee hearings pertaining to this?

Sen. McLAUGHLIN: I am not on the committee and I wasn't at the hearings.

Sen. JACOBSON: Senator do you remember the last time we dictated mandatory things that resulted in a special session being called? Do you remember that little fiasco? I am just wondering if here again we are imposing certain restrictions on people, that we shouldn't endeavor.

Sen. McLAUGHLIN: I don't agree Senator.

Division vote: 18 senators voted yea. 2 senators voted nay.

Amendment adopted. Ordered to third reading.

(Senators Bergeron, Healy, Foley, and Preston recorded in opposition.)

Senator Healy spoke under rule No. 44.

Sen. HEALY: This particular amendment and bill SB 286, as far as being opposed to it in general I do not want to be considered thusly. But I am opposed to things in general where we are coming up with all kinds of bills aimed at about just every store, every industry, every business going. Now for example the pharmaceutical people. They are involved with all kinds of paperwork. Now we come along and we are going to add more problems to their already multitudinous problems. You go to see your pharmacist, you have a doctor's prescription and he has to make out a bill for you a receipt, if you have insurance he has to make out another special receipt naming the medicine you buy and so forth and it is getting to be quite a problem. The drugstores alone need someone just to do their paperwork today. What I am complaining about is not so much this bill but just about all the bills that are coming through. Everywhere you go we are passing bills. We have 2500 in the legislature and perhaps 96.7 are not worth the paper they are printed on. I think it is about time that we start thinking about important bills and not burdening the public, the people and the business people with all kinds of foolish propaganda and all kinds of reports to be made out. They kind of disturb me really.

Sen. BLAISDELL: You just said Senator and I wonder that every little trash bill, but Senator every legislator has a right to introduce a bill even though you may not agree or I may not agree with it, everyone has their little world that they walk around with and I think that is the legislative process and

you have your opinions sir but I still think that every legislator has his right no matter how bad you think the bill is I might think it is good. I defend their right to be able to bring these bills into the legislature. I might say that you start voting for annual sessions—that might be a pretty good thing.

Sen. HEALY: I concur with what you say, everybody has a right. My opinion is that there are too many of these trivial bills like this piece of legislation coming in for our action and we should stop voting affirmatively on some of them, vote negatively instead and get some of them out of here.

VACATE

Senator Brown moved that HB 261 be vacated from the committee on recreation to the committee on finance.

Sen. BROWN: I request this at the request of both of the chairmans of both of the committees, rather than go through the process twice, there is an appropriation in it and at the request of both chairman is the reason I ask this.

Adopted.

HOUSE MESSAGE HOUSE REQUESTS COMMITTEE OF CONFERENCE

HB 328, prohibiting the removal of sand or vegetation from a sand dune and providing a penalty therefor. The Speaker has appointed as members of said Committee, Reps. Greene, Felch, A. Randall and Neibling.

Senator Keeney moved to accede to the request of the House to set up a committee of conference.

Adopted.

The chair appointed Senators Keeney, Bradley, and Foley. Senator Rock moved reconsideration on SB 335.

Sen. ROCK: You heard a lengthy discussion yesterday on this bill. This is the graphics department within the state government. I think somebody here didn't do their job and I have to say quite candidly that I was disappointed that nobody appeared at our hearing to sell this issue; no one from the

Senator who heard the bill first in his committee appeared and it may well be that we took a wrong step and maybe we took the right step in voting this inexpedient. Remember that Senator Monier was going to refer to committee—Senator Trowbridge and I suggested that instead of just referring it to a committee that we now have standing that we get some better information on it by referring it to a select committee and a resolution might be introduced at a later date for that. If reconsideration is approved my next motion would be to recommend that the bill be recommitted to senate finance and I don't mean for any long and lengthy hard look at it. I do understand that some of the questions that I raised are indeed covered by the law as it is proposed, that the ability to send work outside for specialized processing is included in the report, that we do now have Fish and Game, DRED, Public Works and Highways, Prison, Employment Security, the Office of Comprehensive Planning, all doing their own printing to say nothing of all the in-house xeroxing we have. First of all I concur with what Senator Trowbridge said yesterday, this bill may not solve it but I am asking the senate to give it reconsideration to see if maybe we missed what the point of it was and I have been assured that we will get testimony from a select committee that did study it for two years, made up from printers of the trade who made the recommendations contained in the bill and I hope you will concur.

Sen. MONIER: I would like to rise in support of the motion presented by the good senator from District 11. It disturbed me sometime and I did not want to get involved in a hassle on the floor yesterday about it. We did have a recess but since that period of time we have been able to locate some of the things. For example some of the questions that were asked that I think can be resolved very quickly. Once again, if it goes to finance and I know that it will be right back but the people that are experts will be allowed to be there. There are questions about state prison for example. In this particular bill if you analyze it carefully the prison print shop is an extension of vocational rehabilitation facility which is not now the case. The division that was discussed about being brought out into existence, would supervise and coordinate photocopying equipment and provide storage and operating space. For example, in the state of New Hampshire it costs us on an average, general costs per photocopy, is 5c. In the state of Maine it is $\frac{1}{4}$ of a cent. And the highest cost that we have now

in the state of New Hampshire is 36c. Just reducing the 5c to a cost of 1¼ cent for example on a 12 million volume copy would result in a savings to the state of over ½ million dollars. I think it is worth the time for just a recommittal to get this kind of testimony and then make our determination as to what we want to do with it. I would appreciate if we would support the reconsideration.

Sen. TROWBRIDGE: I am going to support reconsideration because I don't mind reconsidering anything but I must say that since we did the bill yesterday the testimony came in from the prison which would now not be able to do printing, Walter Mead of the highway department was saying this would forestall them from doing their printing. Almost every bit of testimony that I have had is against it and of course the graphics department does not include copying. So there would have to be drastic revisions to this bill if we were to make it a possible thing. I'll take it back in finance and I'll also get all those people who have testified the other group.

Sen. DOWNING: Senator Trowbridge as chairman of the finance committee I thought we had one recommendation on this yesterday coming out of finance and now we are having it recommitted to finance?

Sen. TROWBRIDGE: I am only accommodating my colleagues. The way the bill is written it should be inexpedient to legislate. If they want to bring it back and have it so it comes out right and isn't what it now is I am always willing to work with it. The bill as it was certainly had the proper burial. I think that what we are talking about are different things than what the bill says. So I'll take another look at it, the committee will I am sure.

Adopted.

SB 335, relative to the establishment of a division of graphic services.

Senator Rock moved **SB 335** be recommitted to the committee on finance.

Adopted.

ANNOUNCEMENTS

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, May 19 at 1:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

HB 451, relative to the authority of the commissioner of revenue administration to collect the business profits tax.

SB 366, establishing a 5 member oversight committee to recodify the election laws and making an appropriation therefor.

SB 236, relative to a single retirement rate, service retirement benefits and vested rights under the New Hampshire retirement system.

HB 7, increasing the number of resident New Hampshire members of the New England Board of Higher Education.

HB 1011, relative to the approval of the Dover school district budget.

HB 868, relative to bilingual education.

HB 304, providing for the establishment of loan fund revolving account which meet certain federal requirements.

SB 286, revising the pharmacy laws.

Adopted.

Senator Brown moved to adjourn at 4:00 p.m.

Adopted.

Thursday, May 19

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Oh Lord, support us all the day long as we each wind our way through the intricacies of life which befall us.

Help us to enjoy the fellowship of each moment as we gather together. May our work be direct and to the point and fruitful as we endeavor to fulfill the same.

Let thy spirit continue to dwell upon us as we pause to refresh ourselves this weekend.

Be with us, Lord.

Amen

Senator Downing led the Pledge of Allegiance.

ANNOUNCEMENTS INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SB 334, relative to the transfer of the Manchester and Nashua policemen to the New Hampshire retirement system and making an appropriation therefor. Ought to pass with amendment. Senator McLaughlin for the committee.

Amendment to **SB 334**

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Manchester Transfer.

I. The board of trustees of the New Hampshire retirement system is hereby authorized to negotiate an acceptable method of payment by the city of Manchester of its share of the cost which would result if permanent policemen of Manchester who are members of the New Hampshire policemen's retirement system are transferred to the New Hampshire retirement system group II effective December 31, 1977. Said cost shall consist of employer normal contributions from July 1, 1945 to December 31, 1977; and the unfunded accrued liability from July 1, 1945 to June 30, 1967 as determined in the actuarial report of George B. Buck Consulting Actuaries, Inc., dated November 22, 1976. Upon written agreement between the board of trustees and the city of Manchester the agreement shall be submitted to the fiscal committee of the

general court for its approval and to the governor and council for their approval.

II. On December 31, 1977, provided that written agreement between the board of trustees and the city of Manchester of an acceptable method of payment has been obtained and approved by the fiscal committee of the general court and by governor and council, all permanent policemen who are employed by the city of Manchester and who are members of the New Hampshire permanent policemen's retirement system (RSA 103) on December 31, 1977 shall be transferred to the New Hampshire retirement system group II (RSA 100-A) effective December 31, 1977. Upon transferring, a member may make up the deficient member contributions required in a manner acceptable to the board of trustees, which may include insurance policies to cover said member contributions, or make no payment and receive a deduction of equivalent actuarial value in his retirement allowance.

III. Members so transferred under paragraphs I and II this section shall make contributions as provided in RSA 100-A:16 and at the time of retirement, death, disability, or termination, shall be considered to have been full police members of group II of the New Hampshire retirement system for the entire periods of their creditable service under either system and may be eligible for all benefits provided under RSA 100-A for police members of group II.

2 Nashua Transfer.

I. The board of trustees of the New Hampshire retirement system is hereby authorized to negotiate an acceptable method of payment by the city of Nashua of its share of the cost which would result if permanent policemen of Nashua who are members of the New Hampshire policemen's retirement system are transferred to the New Hampshire retirement system group II effective December 31, 1977. Said cost shall consist of employer normal contributions from July 1, 1945 to December 31, 1977; and the unfunded accrued liability from July 1, 1945 to June 30, 1967 as determined in the actuarial report of George B. Buck Consulting Actuaries, Inc. dated May 20, 1977. Upon written agreement between the board of trustees and the city of Nashua the agreement shall be submitted to the fiscal committee of the general court for its approval and to the governor and council for their approval.

II. On December 31, 1977, provided that written agreement

between the board of trustees and the city of Nashua of an acceptable method of payment has been obtained and approved by the fiscal committee of the general court and by governor and council, all permanent policemen who are employed by the city of Nashua and who are members of the New Hampshire permanent policemen's retirement system (RSA 103) on December 31, 1977 shall be transferred to the New Hampshire retirement system group II (RSA 100-A) effective December 31, 1977. Upon transferring, a member may make up the deficient member contributions required in a manner acceptable to the board of trustees, which may include insurance policies to cover said member contributions, or make no payment and receive a deduction of equivalent actuarial value in his retirement allowance.

III. Members so transferred under paragraphs I and II this section shall make contributions as provided in RSA 100-A:16 and at the time of retirement, death, disability, or termination, shall be considered to have been full police members of group II of the New Hampshire retirement system for the entire periods of their creditable service under either system and may be eligible for all benefits provided under RSA 100-A for police members.

3 Appropriation; Manchester. Provided that written agreement between the board of trustees and the city of Manchester of an acceptable method of payment has been obtained and approved by the fiscal committee of the general court and by governor and council by December 31, 1977 there is hereby appropriated for the purposes of section one of this act for fiscal year ending June 30, 1978 for the states share of the normal contribution the sum of \$28,304 and of the unfunded accrued liability the sum of \$43,849 and for fiscal year ending June 30, 1979 for the states share of the normal contribution the sum of \$59,437 and of the unfunded accrued liability the sum of \$87,698. The governor is authorized to draw his warrant for said sums from any money in the general fund not otherwise appropriated.

4 Appropriation; Nashua. Provided that written agreement between the board of trustees and the city of Nashua of an acceptable method of payment has been obtained and approved by the fiscal committee of the general court and by governor and council by December 31, 1977 there is hereby appropriated for the purposes of section 2 of this act for fiscal year ending June 30, 1978 for the states share of the normal

contribution the sum of \$15,428 and of the unfunded accrued liability the sum of \$25,546 and for the fiscal year ending June 30, 1979 for the states share of the normal contribution the sum of \$33,941 and of the unfunded accrued liability the sum of \$51,092. The governor is authorized to draw his warrant for said sums from any money in the general fund not otherwise appropriated.

5 Effective Date. This act shall take effect July 1, 1977.

Sen. McLAUGHLIN: The amendment is on page 19. It only refers to Manchester and Nashua policemen who are not in the group retirement system from many years ago because of an error and so forth. It means that Nashua pitch in part of the money and Manchester if they want to go into it and the state will at the same time. If they don't go into it before December 31, 1977, the powers to be and the alderman of both councils in Nashua and Manchester there is no bill as such. It is something that has been long in coming and last session it was brought up—I think we have an accord with the people in Nashua and the people in Manchester to make this a workable bill. I recommend its passage at this time.

Sen. TROWBRIDGE: Senator McLaughlin has correctly explained the bill. It is important. I talked with Mayor Stanton yesterday so the people from Manchester felt that one reason they liked this is we are not compelling them to do it. It is sort of like an offer that we are extending until December 31st. That offer can either be accepted by Manchester or Nashua or neither or one of the other, depending on how they want it. We have also given great flexibility to the board of trustees as to how Nashua would satisfy its requirement. We know what the dollars are, what the actuarial figures are, we know that they are responsible for everything up to 1967, the state is responsible for 1967 on. Those figures have been computed and recomputed. But whether Nashua decides to pass a bond issue of its own or pay it in or whether they decide to do it off the top, so long as the trustees are satisfied with the arrangement, commitment, we are letting that be negotiated. Given quite a bit of flexibility here and the Mayor of Manchester I know was quite delighted with the framework of the bill. He can go back to his aldermen and find out whether they accept the offer.

Sen. HEALY: Senator Trowbridge, if they do accept this proposal to join the system, from Manchester and Nashua, do

they come under that pension system that you presented here yesterday?

Sen. TROWBRIDGE: Sure. In other words, what you have to remember is that there are maybe 40 Manchester police and fire who are outside of the system; they are in the old system. They never joined the new system in 67. The new employees who have been coming into the new system but the other ones who didn't come in in 67 are still out there. They want to get in the New Hampshire retirement system because it is better than what they have now. Secondly, it is better for the city of Manchester in the long term, to get them in and funded and get it going than to leave them out there where they have no funding so they would then be like any other group, that is the police and fire.

Sen. KEENEY: I have had some calls from people in Nashua about this. Do I understand that the city would be responsible for everything before 1967 if they enter now and would any of the employees themselves be contributing prior to 1967?

Sen. TROWBRIDGE: Yes they would.

Sen. KEENEY: Is there a particular breakdown that they would use?

Sen. TROWBRIDGE: It's just that we—going back a little bit Senator, when they failed to come into the system in 1967 they I think made a bad decision. From 1945 on both Nashua and Manchester had been under-funding—the employee had been paying on only \$2400 of his salary. He has been paying his contribution only on that portion. So to take the Manchester and Nashua people into the system would cost an enormous amount of money which would mean that you would be taking money out of other people and giving it to Manchester and Nashua but since 1967 there have been things we added to the system, we in the legislature that are really no responsibility of Nashua and Manchester. The way that we conceived of it would be that we the state would have paid it if they had been in the system in 1967. But everything prior to 1967 is the responsibility of the cities. Under this bill the city can pick it all up, the city can ask its employees to pay their share, that is what I was talking about when I said the flexibility of the bargain. We have determined what the liability is and how it gets paid by the city of Nashua for employees is of no concern to us.

Sen. PROVOST: Senator, if Manchester should accept the

offer would you tell the Senate how much Manchester would have to put up?

Sen. TROWBRIDGE: Right now the actuarial study of the thing that we were looking at is a total liability to bring those men in and have them fully funded is 2.7 million dollars. The state is going to pick up 1,050,000 and about 1.7 million for the city of Manchester. Now if you take a look at what the city of Manchester will pay over the next 10 to 15 years if they don't get them into the system which they are now not paying off the top, they are not funded at all, a financial analysis can be made by the city of Manchester within about 2 days to see whether a bond issue of 1.7 million now will pay dividends over the long term or not. We believe, I believe and I think that the mayor does too, that that analysis shows that they will come out better than not accepting the offer.

Amendment adopted. Ordered to third reading.

SB 224, concerning responsibility for costs incurred when a court orders physical or mental treatment for a juvenile. Ought to pass with amendment. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: This amendment is on page 22 of your calendar. It looks like a lot of words, it really isn't that big a deal. The whole problem here has been that a child gets picked up and an agency says that it has been subject to neglect or social pressure and they want to have an evaluation of the child. At the present time they can't find out who is responsible to pay for the evaluation and who should do the evaluation. So very often they are running a child all the way up to New Hampshire hospital. Under this bill they will take the person to court first hearing, to a community mental health center. Secondly, if the child's parents can't pay they can now order the child's parents to pay for the evaluation which they didn't have the authority to do before. And then if the parent does not have any money or can't be located or whatever, then the city or town is not liable for the cost of the evaluation. It is just done by the community or mental health center as one of its jobs for which we give it its funding for in the beginning. That's all this really does, it is more or less channeling as to who pays and who does what.

Sen. DOWNING: Senator as I understood the thrust of the

bill was that the state would pick up these costs rather than the local community. Now this puts it right back on the local community.

Sen. TROWBRIDGE: No. What this does is say first we go to the parents or whoever is legally liable for that child's expenses and then at that point we do not go back we have them come in to the state facility, the mental health center, partially funded by the state, that they would do it and there won't be any charge back to Marlboro or to Salem or to somewhere else which is what happens now.

The original bill that was brought in by the controller, this is the problem that is going on, and I apologize, the controller's office put in the amendment saying that it would be borne by the state. The Department of Welfare came in and they put on that last sentence taking it back to the cities or towns. And that is how that amendment came about. I must say we had a difficult time with this bill—we had three or four child neglect bills and they all seemed to be conflicting. We did one yesterday and here is another one and one of the things we have been told by the Department of Welfare is don't change the status quo on these things or you're going to throw everything off. What this bill now adds is that you can take them to the community mental health center, you can ask the parents to pay which you cannot under present law and it is only if you don't get that expense that it goes on the city itself. Which is status quo right now.

Sen. DOWNING: This is an extreme burden being wished on some communities in the state because of that welfare bill back to the communities for people who are being committed completely out of the jurisdiction of the community. Where the community can't enter into it at all, or hasn't entered into it at all. It is really working a hardship—there are bills running up to \$40,000 to \$45,000 for a single individual. That local community has no control over. This was the purpose of the bill so these costs would be picked up by the state and that last sentence there the health and welfare worked into the amendment apparently undoes the total intent of the bill.

Sen. TROWBRIDGE: You have to watch which bill is which. The mental health evaluation which is not supposed to take more than one day, so in no way are you going to have bills of 40-45,000 under this bill is crazy. That is part of the problem is what there are 3 or 4 different bills and I was just as

confused as you were Senator Downing that what are we talking about here? This bill as I understand it, is only on mental health evaluations of a very short duration which are now being sent up to the hospital where they spend a lot of time there in Concord and are billed back. This allows and really prescribes that it go quickly to the community mental health center, be done fast and not expensive, you can get to the parent to pay for that which he would have more ability to pay for, only in the case that no one pays does the city and town pick it up so I don't think that is what you are talking about. I think there is another bill around here that is what you are talking about that has to do with the big price. That is the one that we did yesterday where they were talking about title 20 money.

Senator Downing moved that **SB 224** be laid on the table.

Adopted.

SB 339, relative to the withdrawal of the Great Bay School and Training Center from the state retirement system. Ought to pass with amendment. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: I am going crazy with amendments that go in and then don't come out the same way. Now I will just explain where we are. Great Bay school wants to withdraw from the retirement system. So does the municipal association for reasons that are their own. We have worked out a deal where reasonably they can under this bill, and spare the system and employee. The only problem is that the statutory references in this amendment are supposed to refer to those kinds or organizations that elected to come into the system. There is a certain statute that deals with that. Instead what it does is refer to all the cities and towns that under this bill would have been passed in its present form—every city and town can get out of the system and so here I am dealt at the last minute, this amendment and it is wrong. I apologize but just like Senator Downing on the other ones, someone runs up with another amendment and you don't even know what is in it so I am getting a little fed up with it.

Senator Smith moved that **SB 339** be laid on the table.

Adopted.

SB 253, relative to the examination, certification and registration of arborists and making an appropriation therefor. Ought to pass. Senator Rock for the committee.

Sen. ROCK: Mr. President, members of the Senate, this bill has already had a public hearing in administrative affairs. I have contacted my expert in the affairs of arborists in the 2nd district and he tells me that it is a good bill. It was sent to senate finance because it had an appropriation of \$400 for the fiscal year 78 and \$400 for the fiscal year 79. The committee recommends approval of the financial portion of that bill.

Sen. BRADLEY: This bill seems to be very broad in prohibiting anyone from advertising, soliciting, contracting or contracting to improve the condition of fruit, shade, ornamental trees or shrubs by pruning, trimming or filling the cavities.

Sen. ROCK: If you advertise yourself as an arborist you have to be licensed.

Sen. BRADLEY: If I am just a handyman who goes around and cuts my neighbors flowering crabtree, have I got to get certified to be an arborist?

Sen. ROCK: Senator I would have to defer to Senator Poulsen as the expert—we merely looked at the appropriation and I think that question would be better answered from someone from the administrative affairs committee.

Sen. POULSEN: They can still do it but the only thing they cannot do is advertise themselves as professional arborists. It exempts municipalities that do it and power companies and everything else. This is purely a trade licensing—it is no different than a lot of others. It is in effect now—what the bill does is change the board of licensing somewhat and stiffens up the enforcement.

Adopted. Ordered to third reading.

SB 368, abolishing the municipal power department authority in the city of Berlin. Ought to pass with amendment. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: If you recall we had a hearing which

was a very good hearing in senate finance on Senator Lamontagne's bill. One of the things that came out of that hearing was that the question as put in the original referendum was a reverse question. In other words if you were in favor of municipal power in Berlin you would have to vote no and if you were not in favor of municipal power you would have to vote yes. So we took the question around and make it a yes, no basis that every voter could understand. So that is why it says, shall the 1970 vote of the city of Berlin, which everybody knows about in Berlin for sure except for those who were born thereafter, in favor of adopting a municipal power department of authority be ratified and confirmed so that the question is straightforward. Beneath this question shall be a yes—no. This gives Senator Lamontagne and his group a referendum in the city of Berlin on September 8th. Now frankly I am not in favor of that I don't think they should have a referendum at all and I'll speak to that later. Senator Rock wasn't here so I got up to explain why we did what we did and that this amendment does not interfere with any ongoing, legal process that is happening in that city and that was a very important part of the hearing—is to say that you cannot really interfere and if you do you are in trouble. So we adopted the amendment and we think it is fair and if what they want is a referendum, there is the referendum.

Sen. ROCK: I want to thank Senator Trowbridge for doing that for me. I guess most of everything that was in the deliberation has been said. I think the main thing that the senate finance committee members were concerned with was that Senator Lamontagne had requested that there be a referendum on this issue; that the people of Berlin be given an opportunity to speak and to either confirm or reject their original vote on an issue. Frankly the issue is very far reaching and involved and we had a good number of people from the community of Berlin down yesterday who spoke on this and the act that we have back here now is a little different from the original bill as it was introduced but it would prevent your voting yes if you mean no and vice versa. This is clearer we think than the original. It is difficult for us down here to decide what the problem is but we are deciding is that yes, they may have the opportunity to vote on it and explain to their voters and explain it to their participating back-up in Berlin.

Sen. LAMONTAGNE: I personally feel that I have wasted enough time of the Senators that I certainly don't want to

trouble anyone. I just called the city attorney and the city attorney is not pleased with the wording, an act permitting a referendum for the city of Berlin. Personally I am not wasting any more of your time, I wasted enough of your time the other day, enough so that I want to apologize to all of you. Let it be and we'll do the best with what we have here. I think at least we got a referendum and at least we'll have that. And where there were 7 members of the council with 2 who favored SB 368 and let's see what is going to happen in the House if you people pass it.

Sen. TROWBRIDGE: Just for the record, during the discussion on this bill it became clear that since Senator Lamontagne properly so, he has been elected and in city council he has a 7 to 2 majority; that under RSA 45 they could call a special election by themselves at the present time. They have the authority to do so. It is for that reason that I thought it could be worked out on a strictly local basis and not have me as a senator from Dublin saying there shall be a referendum in Berlin on a question that relates only to Berlin. I have brought the analogy as if someone wanted me to have a referendum in Nashua as to whether the city council be elected or appointed or whatever, if we put a referendum in there they would object like the dickens. Especially when there is already a mechanism for them to handle this in the normal course of events. I am going to vote in favor of the amendment because the amendment is better than the bill and then I am going to vote against the bill and be recorded as such because I think it is a great interference of us and if you had heard all the countervailing arguments that we got yesterday you would know it is interfering in a very touchy situation inside the city.

Sen. ROCK: Senator isn't it true though that throughout the course of our legislative year, in many instances, take this kind of a step even though the same avenues to Nashua, might be open, we are going to be hearing bills this week that were introduced to make changes and to send back for referendums in the communities—it is not unusual to do these things even if there is another avenue?

Sen. TROWBRIDGE: Under this circumstance, it is unusual. One man there was wonderful. He said—is this the World Series? I mean we had a vote in 1970. The vote was under article RSA 38 in which you have a vote and then you are supposed to proceed down the course and investigate and carry out the will of the voters. It was a 3-1 margin in favor of

municipal power. Now you have another vote, and let us say that reverses. Okay now you have a third vote—so it is 2 out of 3? If you have a bond issue vote in the town, right—and it is voted—do you then go back and vote again to undue the bond issue? There are certain things in our own RSA 38 which deal with municipal power which is different than some of the other issues that you are bringing up for Nashua. Under the present legal conditions of what they are doing this is repealing RSA 38 without ever mentioning it. So that is the difference between those other things and this particular thing where you have a statutory thrust that we have already gone along with.

Sen. McLAUGHLIN: Mr. President, I rise in support of the amendment and the bill. I think from all that was said yesterday in the hearing in different ways, I think there is different feeling of some of the people in the town during the past 6 or 7 years when they voted on this before, I think it is good to bring it back to them and let them vote, win, lose or draw. It is their own problem in their own area. I just think we ought to give them their own opportunity to have a referendum. Do whatever they want and get them out of our hair. I recommend its passage.

Sen. FENNELLY: I rise in support of the amendment and I want to compliment the members of senate finance that they did a good job in explaining on the ballot it was going to be a yes or no and I also support the bill. It is basically a freedom of choice for the people of Berlin or any city for that matter to vote on a clear issue, whether it be power or anything else. I hope that the Senate supports the committee report.

Sen. LAMONTAGNE: I'll be very brief, but seeing that there have been some matters brought up that I think that it is questionable that you people ought to know that I am not blaming these people that spoke yesterday against me. Not one bit. It is the person who is a professional promoter who is an expert at it, who has convinced these people. Let me ask you if this is right. This guy convinced the mayor and council, back in 1970 to appropriate \$25,000 and to give it to the individual for himself to investigate his own company. I am not asking for anything that has not been granted and has to be granted. There are other issues coming in here and could be referred to RSA 49 and it is not.

Senator Blaisdell moved the previous question.
Adopted.

Amendment to **SB 368**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT
permitting a referendum in the city of Berlin.

Further amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Referendum. The city clerk of Berlin shall prepare a special ballot for a special election to be held September 8, 1977 containing the following question: "Shall the 1970 vote of the city of Berlin in favor of adopting a municipal power department authority, be ratified and confirmed?" Beneath this question shall be printed the word "Yes" and the word "No" with a square immediately opposite each such word, in which the voter may indicate his choice. The city clerk shall notify the secretary of state of the results of the vote provided for by this section within 10 days.

2 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to third reading.
(Senator Trowbridge recorded in opposition.)
(Senator Smith in the chair.)

SB 364, relative to training in osteopathic medicine and making an appropriation therefor. Ought to pass with amendment. Senator Saggiotes for the committee.

Amendment to **SB 364**

Amend RSA 332-E:2 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

332-E:2 Agreements Authorized. The governor is authorized to enter into an agreement with the board of trustees of the New England college of osteopathic medicine at St. Francis college in Biddeford, Maine, for the purpose of pro-

viding osteopathic medical education to qualified New Hampshire residents. The contract shall provide for the enrollment of not more than 3 students for each class year. A sum not to exceed \$8,000 shall be paid yearly for each student so enrolled. A total of not more than 3 students for each class year may be enrolled in such school.

Amend RSA 332-E:4 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

332-E:4 Enrollment. The dean of biology of the university of New Hampshire shall certify to the state comptroller before October first of each year the names of those New Hampshire students not exceeding 3 who have enrolled at the New England college of osteopathic medicine and who meet the other requirements of this chapter. The state comptroller shall pay to such schools a sum not exceeding \$8,000 times the number of certified eligible students enrolled under this chapter.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Appropriation. There is hereby appropriated for the purpose of section 1 of this act the sum of \$24,000 for the fiscal year ending June 30, 1979. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Sen. SAGGIOTES: This bill does what we have already done for medicine, schools of veterinary and the Senate has adopted the same program for the school of dentistry. The amendment to the bill that you have before you amends the original bill that calls for 5 positions to be reserved at the New England College of Osteopathy in Biddeford, Maine. It changes the 5 positions to 3, the other amendment changes the appropriation from \$40,000 to \$24,000. At the public hearing it was stated to the committee that there was a definite need at the various communities for the services of doctors of osteopathy and also it was stated by one of the doctors who came down from Maine, testified that there had been 17 applicants from the state of New Hampshire to go to that school last year but only 2 had been accepted due to the lack of space. And for this reason I support the bill.

Sen. : Senator does this mean that we are guaranteed 3 seats at this school?

Sen. SAGGIOTES: Yes it does.

Sen. BLAISDELL: It means that each year we have 3 people who can go?

Sen. SAGGIOTES: This is only for the school year 78-79. The appropriation is for only this year.

Sen. : Senator I notice that the student will have $\frac{1}{4}$ of his liability forgiven if he practices medicine in New Hampshire for 8 of the 12 months of the year. Is that true of the others that we have passed?

Sen. SAGGIOTES: Yes.

Amendment adopted. Ordered to third reading.

HB 370, relative to salaries of full-time justices of district courts. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: We have discussed this and frankly I happened to be in the House when this bill came up before the House Judiciary committee when I was on another bill. I spoke in favor there as amended and it was amended in the House and now it is before us in the Senate with a House amendment. Basically what it does is apply to the judges of the Nashua and Manchester district courts, at least at the present time, and with the other full-time justices qualifying, to receive up to 95% of the salary of the associate justices of the superior court when they should attain a certain case level. Basically, what it does, now the judges are paid \$30,000 for these two courts. The system promotes, we have them coming up here and begging for a salary increase every few years. Rather than doing that it is most appropriate to have them geared to the level or percentage of the superior court judges. The interesting thing is that the bill as it is amended I think will give a \$2,000 pay increase to four judges and that will be it. And it will come from district court fees. The committee of the judiciary heard it and we felt that in view of the fact that they are not able to practice law or do anything else on the side to earn income, that this would be an appropriate thing. As we know, from most of these full-time district court judges, that they do work very hard. You go in at 8 o'clock in the morning and they are there and at 5 o'clock at night too.

Sen. SANBORN: Senator, yesterday we created 3 or 4 dis-

trict courts full-time with a ½ dozen or more judges who all come under this bill?

Sen. BOSSIE: I would doubt very much that they would. Senator Bradley nods no. This would be based upon the case load and the maximum will be 95%. Say a judge in Concord who makes \$25,000 now, and he won't get any pay raise out of this because they don't have enough cases to generate the income, the revenue, and to be that busy.

Sen. SANBORN: It appears here in the book, relative to salaries of full-time justices of district courts. Isn't that what we did yesterday is establish at least 3 and maybe more district courts?

Sen. BOSSIE: Yes but Senator if you would look at the bill as it is amended and it is on page 803 of the House Reports, what it does, the House has amended this, and properly so I might add, so that now all judges no matter whether they are part or full-time, are determined by the case load. Once they obtain a certain number of cases a year, I think it is 15,000, that they are considered full-time and cannot work on the side and they are paid \$25,000. Once their case level goes up as per this bill and if we should adopt the bill today, the maximum amount will be 95% of the superior court judges. These full-time district court judges up in Grafton county is not busy. They will not generate these number of cases so they do not qualify for the total amount. They would probably qualify for the \$25,000.

Sen. SANBORN: However, under that Grafton and Belknap county at the same time you eliminated all the little municipal courts and so forth so all those case loads will now be in the 2 or 3 district courts that we established and that may well bring them up.

Sen. BOSSIE: We have determined that and I guess Senator Bradley has, at least at this time, that they will not qualify for any pay raise that we will give today.

Sen. SANBORN: You are hopeful on that.

Sen. BOSSIE: Frankly I am not bothered either way senator and I think one of your constituents, Judge O'Neil, would favor this bill.

Sen. HEALY: I rise in support of this bill, believe it or not. There seems to be a misunderstanding in my thinking, about judges and about attorneys. In fact I have a few good friends who are attorneys. Not too many, but some. I also have a few friends that are judges. There are two judges in Manchester

that really do put in a day's work and they should be commended. Therefore I think and feel strongly that their salaries should be fairly good. I endorse strongly this bill especially where it concerns the Manchester judges. I do not concur that these judges, so called full-time judges, are working full schedule. I disagree on that. I don't think they are and I think in the future there should be something done by the judicial system to square themselves away on the pension system because if these judges are coming under a pension system, sooner or later the state of New Hampshire is going to be in trouble. I would like to go back to the city of Manchester where I served as a member of the board of aldermen some-time back and I pointed out to the effect on that particular occasion, and I was only a kid at the time, it was self-evident that the city of Manchester was going strongly into debt on account of the free pension system. We had a freebie operation going on for everybody down there. It got so that the pension load became so strong and heavy that even the taxpayers woke up to that fact. And the aldermen did something about it—they are now on the state pension system, and thank God for that because the taxpayers feel better about it. I have talked to Senator Bradley about this and I think Senator Bradley even concurs with me that something should be done about the judicial pension system. Sooner or later something has to be done. Now if we are going to start adding pensions to these district court judges the state of New Hampshire is going to be in such a situation that it is going to be obvious that something has to be done but by then it is usually too late. The time to do it is now.

Sen. MONIER: What are the salaries now of district court full-time judges?

Sen. BOSSIE: The maximum is \$30,000 and the minimum is \$25,000. Concord and Keene have \$25,000, Manchester and Nashua have \$30,000.

Sen. MONIER: What is 95% of a salary paid to an associate justice?

Sen. BOSSIE: The salaries of the associate justices are \$33,000 this would be \$32,000 some odd dollars.

Sen. MONIER: So actually what we are doing is saying we are giving them a \$2,000 odd raise.

Sen. BOSSIE: \$2,200 raise.

Sen. MONIER: Are they going to get that raise regardless

of their case load, I guess I don't understand that, I'm rather dumb.

Sen. BOSSIE: As I explained to Senator Sanborn, it is still determined by the number of cases. In order to receive the 95% they would have to do at least 16,000 cases per year for a judge and so only two courts would be doing that and that would be Manchester and Nashua. What Would happen at the other courts, Concord, Keene, would be able to eventually go up that high if their population increases.

Sen. MONIER: At the present time on the books, how many district courts qualify as full-time?

Sen. BOSSIE: Four.

Sen. MONIER: Is there anything that we passed in this session up until now or any bills before us for consideration, with respect to increasing that number of full-time district courts?

Sen. BOSSIE: Only the Bradley bill that passed the Senate last week and I would imagine it has serious problems in the House. I don't know.

Sen. MONIER: How many did that add to it?

Sen. BOSSIE: I believe three for the whole of 5 counties.

Sen. MONIER: So we are now then talking 7 possible with 4 absolute.

Sen. BOSSIE: A total of, there would be a total of 14 full-time judges.

Sen. MONIER: That would fall into this category.

Sen. BOSSIE: Yes. But who would not all attain the 95% level.

Sen. MONIER: But all of them would have the equal minimum amount of \$25,000.

Sen. BOSSIE: Yes.

Sen. MONIER: Then we are going from 4 in passing this bill or possibly 14, all of which would have a minimum of \$25,000 and somewhat of an undetermined number would have the maximum.

Sen. BOSSIE: Now we have six full-time judges and this will bring it to a total of 11, I was incorrect with 14. I'm sorry I wasn't exactly a fanatic for the Bradley bill.

Sen. MONIER: All of these salaries are paid by the municipalities?

Sen. BOSSIE: It comes out of the district court funds themselves.

Sen. MONIER: In how many cases do you know where the

district court does not support that salary and therefore it costs the taxpayers.

Sen. BOSSIE: None. In the city of Manchester they take in well over ½ million dollars in fees, they turn over \$118,000 per year to the motor vehicle department, they turn over ¼ million dollars to the city of Manchester.

Sen. ROCK: Was there any testimony put out that the salaries should relate to the caseload of the particular court?

Sen. BOSSIE: No. The only testimony offered both in the House and the Senate was favorable to the bill and especially the way it was amended.

Adopted.

Question of ordering to third reading.

Division vote: 12 senators voted yea. 8 senators voted nay.

Ordered to third reading.

(Senators, Sanborn, Monier, Brown, recorded in opposition.)

HB 647, repealing the penalty for neglecting children. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: This is a very simple bill that doesn't do exactly what it is supposed to. There is presently on the books apparently two different penalties for neglecting children. The people who are involved in this area found it to be a problem and they want to take away one of the penalties so it is clear that the other one applies. There was no opposition to it and there were several people who appeared in favor of it including Judge Douglas.

Adopted. Ordered to third reading.

HB 796, establishing an approved absence program in houses of correction. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: This is a simple bill in concept. We presently have a so-called approved absence program for the state prison. This bill would extend that program to include also the county houses of correction and it would give the same powers to the superintendent of the county house of correction as the power is now given to the warden of the state prison. This

bill allows people out of the prison for specified things such as attendance of a funeral, obtaining medical treatments, securing employment and so forth.

Sen. BERGERON: I listened to what you had to say but I am not quite sure whether you are referring to a situation whereby you are talking work release programs, the commissioners may release people to do some work for the municipality or road projects. Or everytime the whim hits them that they can get out . . .

Sen. BRADLEY: This isn't the work release program. There is another bill on that that is being heard at the same time. It will come along later. This is the thing that allows, if you are looking at the bill and look at page 2, where it says the circumstances under which they can have approved absences.

Sen. BERGERON: We have visit with the inmate's family—I can see a guy trying to get out 2 or 3 times a week to visit his wife, seeking and securing employment, attendance at a specific community religious educational, vocational and civic or recreational activities?

Sen. BRADLEY: The terminology is broad and covers lots of things. I think you have to rely on the judgment or discretion of either the warden and superintendent because if you don't you shouldn't vote for it.

Sen. BERGERON: You can get out for anything. Bov!

Adopted. Ordered to third reading.

(Senator Bergeron, Healy recorded in opposition.)

HB 348, relative to the eligibility of jurors to serve again. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: A juror cannot again serve for six years. HB 348 would lower that to 3 years and it would help communities that have difficulty filling their jury lists.

Adopted. Ordered to third reading.

HB 474, permitting persons awaiting trial in superior court to work in a jail or house of corrections. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Justice Douglas of the Supreme Court appeared before the committee in strong support of this house

bill and because of problems that he has experienced as a trial judge when he was in the superior court where people that are incarcerated waiting for trial, are not under present statute, permitted to work. What this does is to permit the prisoner and only those who are likely not to take off and flee or to commit acts of violence, to work within the confines of the jail or house of correction if he volunteers to do so and the county commissioners and the jailers all agree that there would be no problem for him to do it. He has done this by rule in various counties where he was sitting as a judge but of course as we know when he left a county and the term was over that rule had no longer any effect. This would appear to be a good program and Senator Sanborn I am sure will be very pleased to know that this will not cost the tax payers any money. The prisoners as we know in these houses of correction and in the state prison are entitled to a per diem for work everyday—they won't get any money but with time on their hands some of these prisoners feel they would probably like to do this, to forget about other things. I strongly support it.

Sen. SANBORN: Did I understand you to say that this is free labor?

Sen. BOSSIE: This is free labor.

Sen. SANBORN: As soon as this gets into our federal courts we'll know very well that it won't be free labor. We'll have to pay them as we do in the prisons and what do they come under then, the minimum wage law?

Sen. BOSSIE: Well if they are under the age of 19, they won't.

Adopted. Ordered to third reading.

HB 675, relative to the definition of "minor" in the RSA chapter concerning exposing a minor to harmful materials. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: Mr. President, in studying some of the bills in the state it was discovered in this instance that a minor was considered to be 17 year of age and it is clearly a housekeeping bill which raises the age in this instance in chapter 571-B, the minor will be raised from 17 to 18. We recommend its passage.

Adopted. Ordered to third reading.

Special Order 1:01

SB 254, eliminating the one year full pay provision for totally disabled classified state employees.

Senator Hancock moved that **SB 254** be indefinitely postponed.

Sen. HANCOCK: As some of you may know I am a former state employee, and therefore I perhaps know many of the problems and feel rather strongly for the best interests of the state employees. I may not feel any more strongly on the subject than you do and right now many of those state employees and their representatives through the state employees association feel that they are forgotten. I think to lose the protection of this statute is considered a serious matter by state employees. I have been contacted by highway department workers, conservation officers, enforcement personnel and others who perhaps do more physical jobs. They are not necessarily looking for disaster which this bill would help them out in, but they realize that disaster might come and they are feeling quite upset. I have been following the collective bargaining process as perhaps some of you have and I have read the fact finders report. Now negotiations in this collective bargaining process began last November and not once did the negotiating team bring up this subject. Workmens compensation is an obvious subject for such negotiations and yet keep in mind that this was never brought up. I think if there is a problem with workmens compensation it should have been brought up at the bargaining table where it belongs. I also think to do away with this statute which you so wisely enacted in 1973 is going to invite a lot of special, which will certainly cost a lot in terms of hardship for the employee who is concerned, and time of the legislature which is important too. I ask that we really not use the state employees as one of the means of balancing the budget and I ask you to keep this statute as it is now.

Sen. BERGERON: Senator do you have any idea how many people are affected?

Sen. HANCOCK: No I don't have.

Sen. BERGERON: I can sympathize with your intent of what you are trying to do but would you agree in the event of a disability, we shouldn't be looking to better the individual but

kind of keep him somewhat in the same order of income that he was prior to his being disabled? Would you agree with that?

Sen. HANCOCK: This isn't necessarily going to better his income it is going to keep his income at the same level.

Sen. BERGERON: Senator when someone is out sick, disabled for a year period and he receives his pay, how is that treated from an ILS standpoint?

Sen. HANCOCK: I think it is tax free.

Sen. BERGERON: In that case if he was in the minimum level of a 20% income tax bracket, wouldn't he be bettered by the 20%?

Sen. HANCOCK: He certainly would be in a position to require being bettered.

Sen. BERGERON: In addition to being bettered by the 20% isn't this same employee also entitled to social security benefits?

Sen. HANCOCK: It is very difficult to put those two together. It is almost impossible to get social security unless you are practically bed-ridden.

Sen. BERGERON: Senator isn't it true that after you have been disabled for a period of six months, you are eligible for social security benefits?

Sen. HANCOCK: Yes, but it is very difficult to get them. It is by no means Senator an automatic occasion.

Sen. ROCK: Senator, when senate finance heard this there was a great deal of concern that if a person were disabled without going into the ramifications of the disability, at the present time for a disability that might be less serious than another one, there really isn't any incentive for the person to get back to work whereas we do want to meet the obligation, we do want to have that responsibility to see that the person is taken care of. The way the bill was enacted in 1974 has taken away the incentive for a person to really get back on the job and get to work again because the full year is there with full pay. Do you have any response to the feeling that a person might be more willing or a little more rapidly recuperated if he is getting the workmens compensation and getting sick leave if he wishes to take it but not the full pay for a year?

Sen. HANCOCK: As I understand it Senator, this is monitored by the Department of Labor in cooperation with the vocational-rehabilitation division of the department of education so I would think that the responsibility would lie

with them to work with the disabled person in trying to return to productive employment as soon as possible. Now again underlying this is the feeling that suspicion that a person isn't willing to go back to work. I don't think that is necessarily true. I think if a person is disabled they will want to return to their employment as soon as possible.

Sen. ROCK: Senator let's compare with me if you will, a worker in private employment as compared with a worker in state employment. I don't think it is your intention to give a worker in state employment a let up over the worker in private employment and yet in private employment they don't have that provision. Could you explain the difference between the two.

Sen. HANCOCK: I would say that it is unfortunate that they don't have it but if the legislature in its wisdom thought it was well for the state employees to have it at one point I see no reason for taking it away now. And as I said earlier we are going to subject ourselves to something that is pretty unpredictable, but a great many specials in cases that are going to come in before us that would have been taken care of under this provision.

Sen. ROCK: Let me ask my question another way Senator, you do believe in parity and equality and apparently the private sector which has its unions and has its power struggles as we all have, does not have this benefit so we are putting our state employees in a oneupsmanship by having this, are we not?

Sen. HANCOCK: You might also turn around and say that we aren't paying at the same rate that private enterprise is paying either.

Sen. ROCK: Well we won't get into that Senator because I think you would find you may be the other way around on that scale but notwithstanding that, looking at the labor department—we all know the labor department leans very strongly towards labor and its decisions, did you hear any great hue and cry from Commission Duval against this bill?

Sen. HANCOCK: I heard nothing at all from him.

Sen. ROCK: Based on testimony that Mr. Duval gave the house appropriations committee, that he favored similar workmens compensation treatment for all employees in both the state and private employment would you not think that he would favor this bill?

Sen. HANCOCK: I would think that he would favor this bill.

Sen. ROCK: Senator you made the comment that the senate in its wisdom enacted this legislation several years ago. I am sure you know of many instances where the legislature enacted bills and put laws on the books that it found not to be too wise and since has removed them.

Sen. HANCOCK: True.

Sen. MONIER: Senator as I read this bill it very specifically says that state employees shall be entitled to all benefits available to state employees except that the benefits shall not exceed that employees full pay.

Sen. HANCOCK: They don't get full pay plus workmens compensation. They get part of their pay from workmens compensation and part is out of whatever source pays them. Their final check is no more than if they were ordinarily working. It is your bill Senator, you must understand it. For one year you do not use your annual sick leave but at the end of the year you start using your annual sick leave if your disability continues that long.

Sen. ROCK: Senator one of the things we discussed in senate finance was another expense to the state of New Hampshire and that is when a person is out on this disability the job must go on and the work must be done and the hiring of temporaries is a problem. Would you give the senate some of your views on that?

Sen. TROWBRIDGE: In the calculation I said I was not thinking that we would save as much money as has been estimated but the real saving is not in the amount of money paid to the employee, because most of them come back to work so the real problem is the temporaries that have to be hired to fill the slots. That cost to the state is the real cost of this rather than the marginal whether we pay them 2/3's or whether we pay them full salary. That hasn't been discussed much in this debate.

Sen. DOWNING: Senator Hancock, just to try to crystalize these things if I understood you correctly, doesn't it boil down to a present employee benefit and if you support the bill then you are eliminating the present benefit and if you reject the bill the benefit will stay as it is?

Sen. HANCOCK: Yes. You are eliminating a benefit which is I think considered extremely important by the state employee's family if we do away with it.

Sen. FOLEY: I am a little bit concerned about one of the statements that have been made. At one time in one of the liquor commission stores one of the men was on workmens compensation for the year and one of the problems was that under the rules as they told me they could not even hire temporary help to take his place, as long as he was being paid there was nothing they could do about it. Now I understand in some areas they are all temporary help to be hired to take someone's place and I think we ought to look into this and see if there is a ruling in relation and if it is followed all over. If no one can take your place that's one thing, I can't understand that.

Senator Hancock requested a roll call. Seconded by Senator Bossie.

The following senators voted yea: Bradley, Trowbridge, Hancock, Healy, Bossie, Fennelly, Downing, Preston, Foley.

The following senators voted nay: Poulsen, Gardner, Bergeron, Jacobson, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Sanborn, Provost, Brown, Keeney.

9 yeas 13 nays

Motion failed.

Question of "ought to pass".

Adopted. Ordered to third reading.

(Senator Foley, Preston, Downing, Fennelly, Bossie, Healy, Hancock, recorded in opposition.)

Senator Trowbridge moved to take **SB 339** from the table.
Adopted.

SB 339, relative to the withdrawal of the Great Bay School and Training Center from the state retirement system.

Senator Trowbridge moved an amendment to **SB 339**.

Amendment to **SB 339**

Amend the bill by striking out the title and inserting in place thereof the following:

AN ACT

relative to withdrawal from the New Hampshire retirement system.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Retirement System Withdrawal. Amend RSA 100-A by inserting after section 42 the following new section:

100-A:43 Withdrawal Authorized. Notwithstanding any governing board, or authority which, pursuant to RSA 100:29 or 30, or any governing board or authority which, pursuant to RSA 100-A:20 or RSA 100-A:29 or 30, elected to have its officers and employees become eligible to participate under the respective systems, such officers and employees are hereby authorized to withdraw from the retirement system on the next anniversary date of their participation provided notice is filed with the board of trustees, on a form prescribed by the board, no less than 120 days prior to the withdrawal date.

2 Withdrawal Procedure. The withdrawal authorized by section 1 of this act may occur upon the following conditions:

I. That $\frac{3}{4}$ of the officers and employees of said employer who are members of the retirement system vote to withdraw; and

II. That the governing body submits written notice of the vote to the board of trustees of the New Hampshire retirement system.

3 Officer or Employee Rights Upon Withdrawal. Any officer or employee withdrawing from the retirement system pursuant to sections 1 and 2 of this act shall be entitled to withdraw his accumulated member contributions which shall be credited with accumulated interest to the date of withdrawal. After withdrawal, the employer will cease to be required to make contributions to the retirement system for the normal contribution or the balance of the established unfunded accrued liability.

4 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: This is the Great Bay bill that I have been struggling over and the new amendment has the right references to the right statute and so we are not allowing all the cities and towns from retiring from the retirement system.

The basic feel is that this only applies to those kinds of organizations, which would be the municipal association and the Great Bay and maybe two or three others who have elected to join the system who are really not state employees. Never were, they are optional people in the system. And if they want to get out of the system then there ought to be a way to get out of the system—that is fair to the system. They asked if they could not only get back the employee contribution but also the employer contribution. Now the employer contribution in many ways goes to fund the insurance program and the disability and everything else that they have, the employee side goes for their retirement benefits. Since they will not have any employee retirement it is only fair that we give back the employee retirement benefit share but all the time they were under the umbrella of the system they were protected by the insurance program and all the rest so it is only fair that the employer side stay in. And that is exactly what this amendment does and it also requires that $\frac{3}{4}$ of them have to vote to get out. I don't think it is very controversial and it won't hurt the system one bit. In fact it will help them.

Amendment adopted. Ordered to third reading.

Special Order 1:02

SB 235, establishing a study commission on child abuse and neglect and making an appropriation therefor.

Question of inexpedient to legislate.

Seantor Jacobson moved that the words "ought to pass" be substituted for the words "inexpedient to legislate."

Sen. JACOBSON: Mr. President for the past 19 years I have been teaching a course called American Social Issues at a small college up north. One of the issues that has developed over the years is the issue is the issue of child abuse. Though I don't have the books here to show you the photographs of the evidences of child abuse I hope that you will believe me when I say they are there. It is one of our most serious problems and one of our fastest growing criminal problems—that of child abuse. We have instances every year in New Hampshire where children are actually murdered by parents through abuse. And though it has an appropriation of \$3,000 that is

peanuts compared to the problem. Someone has just told me that the difference between what the budget estimates are in reality and what the expenditures are in the budget as passed, is \$30 million. Well if we are in the whole \$30 million dollars then \$3,000 is not going to make a hill of beans. So we might just as well slide an extra \$3,000 on a subject that I think is of critical importance to children and that is child abuse. If we are in balance with the revenue factor we can afford the \$3,000 too. Either way I believe we ought to pass this bill and that the study committee can be established. You remember we had a few years ago a study committee to study the laws with respect to children and they did a tremendous job and we made some very significant improvements in the laws that have to do with children. I remember when that first came in do you know that we had laws protecting dogs and horses and other kinds of live but not even one law protecting children. This is a critical issue. I hope the senate will support the motion of ought to pass in place of inexpedient to legislate.

Sen. TROWBRIDGE: It is with great fear and trepidation that I take on our leader but I must say that the reason that senate finance did what it did is that there is now a well-established adhoc committee headed by Judge Douglas on the protection of youth against child abuse and there is also the Commission on Children and Youth and I simply feel that our feeling was that another commission at \$3,000 was duplicating the services that were already being done in this field. There was no testimony that that wasn't the case. That was our position.

Division vote: 14 senators voted yea. 7 senators voted nay.
Adopted. Ordered to third reading.

Special Order 1:03

SB 360, relative to state payment for neglected children who are placed in certain kinds of foster care and making an appropriation therefor.

Question of inexpedient to legislate.

Sen. TROWBRIDGE: Again there is no ideological statement here, this is purely financial. This is the one that we

explained yesterday where Title XX funds are available only to a certain amount. Further matching by the states does not increase the funds. So if you adopt 360 you will take somewhere between \$3 and 400,000 out of that fund which is already allocated to other purposes and we felt at this point that the towns are now paying for the cost of their settlement kids in these group homes. They have been and one of the big reasons why this was brought up was to find a way to get method of payment and that isn't a big problem to them—they have had only one big problem—meaning the department of welfare, so we felt that we would be shifting our priorities there and from something that was already being handled in an orderly fashion. If you want to switch it you have to realize that if you do pass it and make priority monies for this program there will be screams from other people shoved out of another program.

Adopted.

Senator Jacobson moved to take **SB 215** from the table.
Adopted.

SB 215, establishing a family court for Merrimack and Sullivan counties and making an appropriation therefor.

Question of Interim Study.

Senator Jacobson moved to substitute the words "ought to pass" for the words "refer to interim study."

Sen. JACOBSON: Mr. President the reason that the original recommendation was made was that there was an effort to make a composite out of SB 225 and SB 215. SB 225 relates to probate judges, 215 relates to a pilot program for a family court system. I looked over the amendment to 225 and that has a number of problems, actually omissions in there and is a much more complex kind of situation. You will remember some years ago, and we talked about it most recently, we started the public defender program and Senator Trowbridge indicated in our discussion of the public defender program that that system as developed, the costs were well established, the public defenders established expertise as against the indigent defendant system. I happened to be in the New London district court the other day and there was a young

man up there who was charged with criminal trespass and there was one of our local lawyers sitting back in the back room minding his own business and handling a case on which I happened to be interested in of another young man. The judge called him up and said we have to have this person tried today, will you be the defending lawyer? He hemmed and hawed, it was a case of either putting the boy in jail because he was not a town boy or having the trial right then and there. And the trial was held in that very spot at that very moment. Whereas under the public defender system and the lawyer had to look up the law and do a lot of things that he would normally be prepared for, and that program has been successful. One of our other problems has been the problem of domestic relations. The major issue of course being divorce and what this does is set up a pilot program in Merrimack and Sullivan counties with a 3-panel non-adversary forum which would be responsive to the general court. It would only go for two years and to see whether this kind of system will aid in the amelioration of court dockets and in the resolution, more adequate and more effective and more efficient resolution of domestic relations problems. It is my view after looking over the amendment and looking over the original bill that it would be far better to do a pilot program rather than the integrated program with respect to the amendment within the court system and then let it ultimately if it is successful be then part of the court system as any other court system would be. There is an appropriation to it and I think when you get down to the final crunch day we are going to have to make a decision one way or the other as to what are the priorities that we do want to fund with the money that is available. I think we ought to have an opportunity to send this over to the house and let them have a look at it, it is sponsored by a member of the house and there is considerable interest in the house on this particular issue and in this way I believe we will keep an idea that is a coming idea alive. Possibly develop a program and an idea will be of benefit to many people in New Hampshire.

Sen. BOSSIE: I rise in opposition to the motion of Senator Jacobson that it ought to pass. I will not make a motion to indefinitely postpone it because I think it is worthy of our attention and study and I would ask you to support the motion of the committee to study it. Senator Jacobson's theory isn't bad in and of itself. It perhaps has great merit. There is a problem however, because of the fact of lack of study we are

not aware at this time as to how many states have this sort of system and whether it works or not. This perhaps might be a sociologist's dream and perhaps it could work. The fact remains that in many divorce cases as we know, and those of us who are quite familiar with it, people want to be disunited. They don't want to be married anymore and the question to a number of them is the division of the property. This is an adversary kind of thing and the people are fighting over the property. In a small number of cases there is a problem as to custody. In a significant majority of the cases the custody generally goes with the female which isn't necessarily the way it should be but that is the way it has been for many, many years. There is also the question of support for the children and the spouse and a question of alimony or separate support as it is known. Now I am not convinced that a layman sort of family court, consisting of two non-lawyers and one probate judge would be the answer. I am just not convinced and at the same time I am not convinced that it won't work either. I would say to you in a time when we are having a money crunch and we are having difficulties paying the people we do have it is very difficult for me to determine that this has a higher priority than say the last bill that Senator Jacobson won on. Perhaps that has a higher priority. At the same time have we heard that anyone is upset with the way things are? I just haven't heard this and perhaps as a lawyer I wouldn't hear it but I am sure that I would hear at least some grumbling from the folks. The only grumbling I ever heard was a woman who was talking to me and she is a great friend of Senator Preston of the 23rd district with regards to the question of custody of children and that divorced parents they want certain rights and they might not be receiving now. I think that these are sort of individual cases and they really have no relevance here. What we are doing is taking one grand stride and I think it deserves much closer attention and I think Senator Jacobson would have to admit that this is something that has never been tried before in our state and that it would need much more deliberation than we have been able to afford it at this time. So I ask you to turn down his motion and work with the committee on this report.

Sen. SANBORN: Senator I note that this went to judiciary — was a large influx of witnesses in front of your committee in favor of this?

Sen. BOSSIE: I believe there were very few witnesses and I was in and out and I can't tell you exactly how many.

Sen. SANBORN: In other words you feel that perhaps we should look into this a little bit more thoroughly in your committee the judiciary, instead of spending somewhere between \$250,000-300,000 at this time to start a new program in the state?

Sen. BOSSIE: Now is not the time to start any new program of this type for something that is at least working at this time tolerably well.

Sen. BRADLEY: I guess I will go with Senator Jacobson's office. The committee report actually came out prior to the time which we decided to put together the amendment on SB 225 which incorporated some of the ideas of Senator Jacobson so that it is not a very necessarily valid committee report in that sense. My thought was, with Senator Jacobson's bill was it would be cheaper and more safer to keep his idea within the existing system. Use the existing facilities, clerk, secretary of health etc., whereas his bill sets up a new kind of court which is going to take more money than I think it really needs in order to try out his idea. Now I can't say I am terribly excited about his idea but I am prepared to say that maybe it is my own bias as a lawyer and I am willing to have this idea tried, having a couple of lay people along with a judge and see if it really does make a difference in the nature of the proceedings. See if it can turn what I consider inherently adversary to a non-adversary proceeding. If it can't fine, I wish it wouldn't cost as much money, my own idea would cost a lot less but if Senator Jacobson wants to go his route I say let us give it a try.

Sen. JACOBSON: Just a clarification. The amendment that was worked out calls for \$500,000 in the biennium and this one is one-half of that—I didn't quite follow that particular point.

Sen. BRADLEY: The major expense of the amendment Senator is the putting of probate judges on full-time. The expense in the amendment would be attributable to your idea is only about \$60,000. In other words it is only the two salaries of the side judges.

Sen. JACOBSON: So making the full time judges probate would cost \$440,000 by your analysis.

Sen. BRADLEY: I'm sorry—\$60,000 per year. It would \$380,000 to make them full time.

Sen. JACOBSON: Could you tell me at what percentage a billion dollars is \$250,000.

Sen. BRADLEY: .025.

Sen. JACOBSON: Would you agree that that is a relatively insignificant percentage of the total?

Sen. BRADLEY: Yes I would.

Sen. JACOBSON: Senator sometime ago we had a debate, remember, about the relative merits of safety versus daring?

Sen. BRADLEY: Yes.

Sen. BOSSIE: I notice in this pre-justice family court that we are going to establish, does this give people a roll, or title for the rest of their lives like we do the other judges?

Sen. BRADLEY: I suppose they would have that title although the funding is only in there for two years.

Sen. BOSSIE: I notice that the qualifications for the two lay members of the court would be persons experienced in training and domestic relations matters. If I am not mistaken from my college days, anyone who takes a course in social work or who was married in fact or went to college would be qualified to get a \$27,500 a year job, is that correct?

Sen. BRADLEY: That isn't very explicit on what those qualifications are. I suppose if you got someone who was married and divorced a lot they might be pretty good.

Sen. BOSSIE: Is it not true as with other appointments in this state that people who may be have the necessary educational qualifications and need a job would apply to the governor and if they belonged to that particular political party then they most likely be in line for that kind of a job, not really requiring any special talent whatsoever.

Sen. BRADLEY: Well that is probably true of a lot of positions in the state of New Hampshire.

Sen. BOSSIE: And I further notice on page 4 where the appropriations are that out of the entire \$155,000 for the year only \$6,000 is for equipment and the rest is for services and extra personnel and employees for the state and these two counties, is that correct?

Sen. BRADLEY: Sounds right.

Sen. BOSSIE: With regards to the \$18,500 for benefits are these free lunches that they would get?

Motion failed.

Question of interim study by the committee on the judiciary.

Adopted.

Senator Bradley moved that **SB 225** be taken from the table.

Senator Blaisdell requested a roll call. Seconded by Senator Bradley.

The following senators voted yea: Bradley, Jacobson, Saggiotes, Blaisdell, Trowbridge, Keeney, Hancock, Brown, Fennelly, Downing, Preston, Foley.

The following Senators voted nay: Poulsen, Gardner, Bergeron, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Bossie.

12 yeas 10 nays

Adopted.

SB 225, relative to permanent disability and retirement of probate judges.

Senator Bradley moved an amendment to **SB 225**.

Sen. BRADLEY: This is an important piece of legislation. This amendment addresses itself to a couple of things. First of all our present probate judges are all part time judges. Some busier than others. They receive a fixed salary from the state of \$11,000 to \$200 or \$300. In addition to that the probate judges receive fees for the times that they sit in special sessions. Their fees vary widely in the smaller counties to about \$2,000 to the largest county where the fees go up to \$20,000 so the amount of money that the probate judges make varies from \$13,000 to \$30-31,000. As all of you know, I have often discussed the problems inherent in part-time judges. And I think it is another idea whose time has come that probate judges ought to be made full-time if there is a way to do it. Incidentally with that goal the probate judges would like to get better retirement. Now the probate judges came in with a bill originally, wanting to get increased retirement benefits tied to their present fixed salary, \$11,000. There was not much enthusiasm for that in the committee and I didn't detect much enthusiasm for that with others that I talked to about it. It

seemed to me that the trade that had to be made was that the probate judges had to agree to become full-time judges before they could expect to get a retirement the way other kinds of judges get. The other area that this thing addresses itself to, presently in the superior court almost all marital cases are handled by so-called marital masters. This is a program that has been set up by the court and set up by the legislature. The courts appoint part-time special judges which are called masters to hear almost all domestic relation cases with very few exceptions. So we have this program going along in the superior court where we have a whole lot of part-time judges on marital matters. Those marital masters cost the counties some \$50,000 plus per year. The idea of this amendment is to say to the superior court and probate judges that the superior court use the probate judges to the extent that they have free time, to the extent that they are not on probate matters; use the probate judges as your marital masters up to their full-time. Killing two birds with one stone—that is the idea of the thing. That makes the probate judges full time and it reduces the emphasis on other part-time judges in the system which are not all that inexpensive. The present probate judges would have the option as to whether or not they want to go into the full-time thing or not. If they chose to go into the full-time thing then they would be entitled to retirement on the same formula as all other full-time judges. Now, anticipating one of Senator Healy's questions, yes this is the same kind of retirement for that superior court and full-time district court judges now have. I am not arguing that that is the best kind of retirement plan. And as you recall earlier in the session, we referred to senate finance the question of retirement for these judges. And the answer came back, until we know which judges are going to be in the system, we cannot really work out a rational, coherent system perhaps a group 3 or something. Now I am perfectly willing to have the new retirement system work out for the judges and I don't particularly care about debating that today. I'll co-sponsor a bill with Senator Healy to do that but until we know which judges are going to put into retirement the only thing I have got to use is the present system. Like it or not; let us change it next year if we don't like it. But if we want to have these guys full time and we think it is fair to give them a retirement, the only kind of plan that we have to use is the one that is in here. This move is not going to cost the general funds anything, should not.

There is a funding mechanism in here on page 5, section 7, that provides for a very small fee to be paid on final accounts on file which should raise about \$250,000 for the general fund and that is the amount of the appropriation so this bill should not add to the financial load of the state. Moreover, it will take some of the burden of the counties that are presently there. I will be glad to go through the bill and answer any questions about it but I think I have covered the highlights as indicated. If this amendment passes I would immediately ask we have it further amended to strike out what Senator Jacobson's has in on his scheme about family counsel, since the senate has already expressed its will on that subject.

Sen. SAGGIOTES: Senator Bradley, as you state, at the present time the probate judges get fees is that correct?

Sen. BRADLEY: That's correct.

Sen. SAGGIOTES: Under this proposal would they continue to get fees or would the salary eliminate the fee?

Sen. BRADLEY: Thank you for asking the question. Any probate judge opting to become full-time under this would have to give up all his law practice and would not be entitled to charge any fees. So he would be on a straight salary system. I might also add is really only fair because the present system allows a probate judge to make more as a judge than any other judge in the state. It hasn't happened yet but it could happen, it is not far away, plus act as a marital master plus carry on a law practice. And that really would not be right to have a probate judge to be able to do that. And I should say also that this scheme was worked out in consultation with the judges from the three levels, the superior, the supreme and probate judges came before our committee trying to come up with something which would solve the various problems and this was the result of them.

Sen. SANBORN: I was interested Senator Bradley on your explanation on page 4, relative to masters. I have gathered from what you said we would eliminate the masters and eliminate that cost of \$50,000 from the counties but what upsets me are these five words in the 3rd line. If one is available. It doesn't sound to me that we are ever going to have probate judges available. And we still have the masters and the cost on the counties.

Sen. BRADLEY: It is a good question Senator. It does not appear that if you took all the excess time of the probate judges right now, that you would have quite enough to cover

all the marital cases in the present system. Moreover, some of the probate judges are pretty close to full-time right now on probate matters. So you are going to have to rely on the scheduling system of the probate court which is already there, already set up where they have to go out and get these masters assigned now. You have to rely on the fact that they will follow the direction of the statute which is that they are to find a probate judge if one is available. If you are worried that some probate judge is going to say he is not available that is an abuse and I can't say that it is impossible to happen but that is an abuse that is inherent in anything and if it happened I would be the first to introduce something to correct it.

Sen. SAGGIOTES: We'll take a for instance. You say that some of our probate judges are pretty near full-time right now, could you delineate a couple of those?

Sen. BRADLEY: The county where the judges are close to full-time is Hillsborough. He was before our committee and testified to this. Actually he is now acting as a marital master. There is no prohibition right now against probate judges acting as marital masters. He gets that on top of the rest of his salary and fee. He has voluntarily not that he is required, but voluntarily given up his law practice so in a way what this bill is doing is saying we are going to have all our probate judges have the option to do essentially what this judge is doing. The counties of Rockingham, Merrimack and Grafton interestingly enough, are all about 50% plus but all are saying that they can see the time when because of some of the impending legislation and some of the new things developing where they will be full-time. And each of those judges, two have come before the committee and one has contacted me separately and they all see themselves not that far away from being full time for probate matters. So it may be that this scheme over 5 or 10 years will sort of fade away as probate judges get full-time because of probate matters and then we will have to worry about the marital masters.

Sen. SAGGIOTES: You mentioned Rockingham county of which some of us have a little bit of interest in. We will say that the judge in probate court in Rockingham county has now reached the level and you say that he is not too far from it of being pretty near full time now in probate matters. He gets a marital question before him and he says I haven't got the time to take care of this. What do they do send the probate judge up and say send someone else to take care of it?

Sen. BRADLEY: This bill states that the probate judges who elect to go into full time will have to ride circuit for marital cases. Again that is something where you have to rely, but there is no reason why you can't rely on the scheduling system that is already there because this is something the superior court, primarily through its clerks are already scheduled. They have to find marital masters to sit all around the state and they may try to get them the best they can from the locality but it doesn't necessarily mean it will work that way.

Sen. SAGGIOTES: Then I can assume that you are going to have the marital masters right in there at \$50,000 a county.

Sen. HEALY: Senator when a probate judge goes into session each week or twice a week let us say, when they are on call to appear, do they get an extra fee for that?

Sen. BRADLEY: Well, they have what is called special sessions where they get fees. They hold these special sessions sort of on request and all of them to my knowledge are quite cooperative in holding the special sessions to the convenience of the public and attorneys. But the point is that they get paid—some get paid a lot more than others.

Sen. SAGGIOTES: I concur on your answer, they do get paid, some a lot more than the others, would you say that they get a pretty good fee for answering the call for a special session?

Sen. BRADLEY: Judge Slattery from Sullivan county who was a very successful and competent trial attorney in his younger days is now the probate judge in Sullivan county, he makes only about \$2200 a year in fees. He testified to our committee that he is approaching 50% of his time on probate matters and moreover, that he is voluntarily taken himself out of several areas of practice because of conflicts which he felt. \$2200 for half of a lawyer's time like that, isn't very good pay. Maybe some of the other judges, it works out better. I think my point is that the present system is not fair, not equitable among the various judges and it has all the problems inherent for part-time judges. My answer is, make all the probate judges who want to do it, there may be 1 or 2 or 3 who don't want to who are close to retirement anyway, make them full-time, give them all the same salary and give them the same kind of retirement you would give other full-time judges. You and I will work out what a fair retirement system is.

Sen. HEALY: Senator Bradley, is it not true that these marital masters are attorneys-at-law in most cases?

Sen. BRADLEY: I believe in all cases.

Sen. HEALY: Are they not appointed by the clerk of the superior court?

Sen. BRADLEY: Well technically by the judges of the court itself. It would be the clerk that would schedule them.

Sen. HEALY: Are they not pretty happy about having these particular assignments?

Sen. BRADLEY: I have not made any particular survey; I guess some of them could make a fair amount of money from sitting as a master. I don't think that is the way we ought to spend our money for judges. I think there is a more efficient, more effective way to spend money for judges.

Sen. HEALY: Senator, with the expenditure on this, why do we have to have this right off. Why can't we wait a little while until we come up with say the proposal for a pension plan so to make this a very specious bill which will not only satisfy the taxpayer but will satisfy the judges too, probate, superior, supreme and even the district court judges. What is your thinking on that matter?

Sen. BRADLEY: As I said before I guess we have a little bit of a chicken and an egg. My answer in committee as I remember their report is that they didn't think it was that they ought to try to figure out a retirement system for judges till they know what judges are going to be in. It is clear to me that the time has come that probate judges ought to be full-time and they ought to be in. I think we ought to make that statement and then work out a retirement system. The alternative apparently is we cannot figure out a good retirement system until we know which judges are going to be in. It is not an emergency but certainly something that has been studied enough and the time is ripe.

Sen. HEALY: Would you consider preparing a pension system for judicial before this session ends, before we climax this particular session of the general court?

Sen. BRADLEY: I have no competence to do it, it is not a thing a lawyer or chairman of judiciary has any competence in. I would be glad to sponsor something that the experts could assure me was workable and sound.

Sen. HEALY: Working with the judicial council you mean.

Sen. BRADLEY: No, I don't think this is something either the judicial council or the judiciary committee can come up

with. I think it is something the retirement people have to work out.

Sen. HEALY: Do you think if we should let this go through right now that within a few years, say one-half a dozen years, the state of New Hampshire is going to be confronted with quite a payment every year for retired judges and so forth. For example, we are having problems with social security where we are running into trouble and many companies are having pension problems—do you think that we might have that same problem in time with the taxpayers?

Sen. BRADLEY: Senator, I agree with you that somewhere down the road with a non-contributory retirement system that there is that kind of problem. I don't think it is an immediate problem because there aren't that many judges that are about to retire. I don't see any risk that we are taking or any problem in working out the pension system over the next year or two.

Sen. HANCOCK: Senator Bradley I have been concerned for quite some time about the cost of probating matters. If we had full-time probate judges, would that in any way expedite the probate process?

Sen. BRADLEY: I would like to think that it would Senator but I don't think it would be safe to make that claim. I really don't see this as changing the speed by which things get probated particularly and I say that because I think the kind of delays that usually occur in settling the estates cannot be blamed on the judges. I think that is the fault more of lawyers and executors, although I think there might be cases where a probate judge was more of an activist than a supervisor, it might go along a lot faster.

Sen. HANCOCK: Would it be the function of the probate judges assuming they were full-time in giving all their efforts to that endeavor, might it not be possible that they would recommend some changes in the probate laws?

Sen. BRADLEY: I think that would be very possible, I think they would be in a better position to have a better system, yes, and to worry about their system and ways to improve it.

Sen. HANCOCK: Why do you think probate judges would be good marital counselors?

Sen. BRADLEY: Number one they have had experience acting as a judge, all but one is an attorney and the one that isn't as I understand it would not be interested in the program.

They have sat on cases involving family things to begin with—they sit in on guardianships, adoptions, so they are already the closest thing to the so-called family court that we have. Of the individuals that I know and maybe I am thinking too much of personalities, all of them would be excellent.

Sen. BLAISDELL: Senator Bradley I agree with you that this is a very important piece of legislation and I don't think we should take it too lightly. One of the most important parts of this, do you agree, is to take the probate judges and get them into the marital end of it where now the masters are taking it?

Sen. BRADLEY: That is right.

Sen. BLAISDELL: I have had a tremendous amount of problems in my area to tell you the truth, one master in my own opinion—I can't document it—has ruined a man's life for the rest of the man's life and I think and I hope that you agree with me that this would put the probate judges, somebody who is competent, to do this type of work.

Sen. BRADLEY: I don't think there is any problem with the competence of our probate judges and if they are made full-time judges by this scheme they will be in the position, unlike the present marital masters, where they can sit genuinely and impartially on these cases. The problem with the marital masters, many of whom may be doing good work, that they are lawyers who the next day may be trying a case with the guy whose case they are sitting on the next day and you just cannot be a good judge and go through those gymnastics.

Sen. BLAISDELL: How many probate judges have retired now?

Sen. BRADLEY: There hasn't been one that has retired in a long time.

Sen. BOSSIE: Mr. President, I rise in opposition of this bill. I do it for several reasons and I'll go through it. Not to belabor the point I think we are all fairly tired today and particularly from this bill. Mr. President, as we know, the probate judges in New Hampshire are part-time. They receive in salaries and fees anywhere from \$14,000 in Sullivan and Carroll county to upwards to \$30,000 in Hillsborough county. Like in Keene and Cheshire county the judge makes with fees and everything else, \$15,500. Even up in Cohass county, the judge up there makes \$16,200. Now that isn't bad considering the fact that they are part-time and they

can practice law or whatever else they want to do on the side. By virtue of the fact that they want the job—nobody forced them to take the job. It is a good job, I would not have any hesitation whatsoever in taking the job of judge of probate at least in Hillsborough or Rockingham county. I think it would be a good job. The fact remains that would happen under Senator Bradley's bill and amendment is that this applies and would be applicable only to those judges that aren't busy enough in either their law practice or their other endeavors and who would like this extra money and who would like the pension. Well, I would like the pension too and I am not going to get into it but the fact remains that the time of reckoning has come and it is fine to give out all this money and this \$250,000 to be appropriated to this but we have to find some merit to the situation and some problem with the present situation. Now Senator Bradley said that the marital masters even though they may be good yeoman and all that stuff may be appearing in other opposition to the other lawys the next day in court. This is true of probate judges. Probate judges practice law. They don't practice in the probate court but I have had a number of them oppose me in certain cases and they didn't present any problem to me. I have never felt that if I beat the hell out of them in one case that I was going to be hurt in any other way or my clients would be. I don't think that there is a problem and most people that are trained in the law understand that it is an adversary system and some people resent it when the lawyers walk out after a battle arm in arm. But that is how it has to be—you are an adversary, advocate in a particular position one day and you speak perhaps in the exact opposite the next day. You know what is going to happen in here—we are going to have the probate judges from a few of the counties sitting as marital masters and the testimony has been from Judge Dunfey from Hampton, formerly of Hampton, that the marital masters are doing a good job now—we have several of them that work just about full-time and they go around to the various counties that need it and that includes Hillsborough, Rockingham, Strafford and Cheshire. What will happen here is fine, these people are knocked out of a little job, the marital masters, and these are people that like to do that, they get \$125 a day. All I can say, will these other judges do any better? Any differently? We don't have to pay marital masters a pension, we will have to pay these individuals a pension. The pension system here pays for

half to your wife if you die and half to your children if they are under 18, that is all well and good but do we really want this. This is also the type of thing that we had Senator Jacobson's bill thrown in for a family court and I realize that this is going to be deleted from it but this is the whole thing—to make things progressive. Well I am all in favor of progressive things but I just wonder if, is this progress? Where does the system fail now? The Senator from Concord, will things be any cheaper with this? They aren't very expensive right now, let's face it. The cost of the court to the public is very low, it is not meant to be self-sustaining. The cost of probate is so minimal, you can do it for \$35 or \$40 in fees. It is the expenses of the fiduciary that are the expense; the executors and the administrators. With regards to the expediency of this we know and Senator Hancock will perhaps recall, we passed a bill supposedly to reform the probate laws and it is in the House and heaven knows what that bill contends. We have to find out. The fact remains that it might be a good idea, this sort of thing—the courts full-time, the question is New Hampshire and especially the smaller counties. This is intended to help the judge up in some little county into having some kind of full-time position and I don't think that that county is ready for it. Some of the counties by the way support or allocate funds for their probate judges. I just don't think we are ready for it, I am not prepared personally to support the pension part of it and the I don't think that the burden has been sustained assuring that good will prevail by passing this bill.

Sen. JACOBSON: It gives me pleasure to be on the side of the distinguished Senator from Manchester, District 20 and I would like to say from a very interesting philosophical point of view that the Senate apparently did not accept my argument that we put forth a pilot program and see what possibilities there are with the family court. I don't feel that we should then turn around and make probate judges into family court lawyers because if we are going to study the whole problem of a family court let us study it in its entire perspective. Though I agree with Senator Blaisdell that the marital system is an ad hoc system and that was one of my reasons for wanting to have the experiment. Partly because I have a little bit more daring than safety in me and so I think that the whole matter of who ultimately should take over the family court processes where the domestic relations within the judicial system ought to then be studied in its entirety. That we should

not move in the direction of making probate judges marital masters and to the further question of making them full-time, I don't think we have had any serious study as to the validity of making them full-time as probate either. I think the senator can now be in the position to study the whole system and come up with a recommendation. It may be something that approximates mine, I believe it is the way of the future, or it may be something that is more narrowly conceived as this proposal.

Sen. BRADLEY: Senator were you aware that the judicial council has studied this issue in the past and has recommended marital jurisdiction be transferred to the probate, and further that the probate judges be made full-time?

Sen. JACOBSON: I think that that study probably has a very narrow scope because it is so dominated by the legal system and not by the sociological system.

Sen. BRADLEY: And were you aware that the most recent study what I call the Kenniston study, also recommended a transfer of marital jurisdiction to probate judges and that those judges ought to be also full-time?

Sen. JACOBSON: I can understand that that might be in the realm of possibility.

Sen. BRADLEY: So it may not be correct when you said that this question has not been studied.

Sen. JACOBSON: It certainly is correct that it has been studied but not in its full potential.

Senator Healy moved that **SB 225** be referred to the committee on Judiciary for interim study.

Senator Blaisdell requested a roll call. Seconded by Senator Fennelly.

The following senators voted yea: Poulsen, Bergeron, Jacobson, Monier, McLaughlin, Healy, Sanborn, Provost, Brown, Bossie, Downing, Preston.

The following senators voted nay: Gardner, Bradley, Saggiotes, Blaisdell, Trowbridge, Rock, Keeney, Hancock, Fennelly, Foley.

12 yeas 10 nays

Adopted.

Senator Rock moved that HB 152 be taken from the table.
Adopted.

HB 152, relative to personal property inventory forms.
Senator Rock moved an amendment to HB 152.

Floor Amendment to HB 152

Amend the bill by striking out all after section 2 and inserting in place thereof the following:

2 New Section. Amend RSA 74 by inserting after section 7-b the following new section:

74:7-c Exceptions. Where no property changes have occurred during the tax year for which the property inventory was filed, the comment "no changes from last year" or "same as last year" shall be deemed acceptable by the assessors or selectmen. Notice of failure to file the property inventory form, or failure to file a complete property inventory form, shall first be sent to the property owner of record as of April 1 before the applicable monetary penalty in section 74:7-a shall apply.

4 Repeal. RSA 74:4, III and IV relative to inventory blanks are hereby repealed.

5 Effective Date. This act shall take effect April 1, 1978.

Sen. ROCK: I had two problems with this house bill. The first problem that I had was one that most of us in the state are creatures of habit and I have the habit of writing the same as last year on my property inventory form. As the bill came to us from the House that would have no longer been acceptable and I could have been fined, penalized for not listing in detail exactly what the property was with its buildings, and boundaries etc. I felt there was no need for that if the property was registered and outlined in detail once, then writing the same as last year provided there were no changes, should be acceptable. And the second problem that I had with it, as you know now, if you fail to file your property inventory form the penalties are number 1, you cannot get a veterans exemption \$50.00, and number two you lose your right to appeal the assessment to a higher authority. That will still be the case but

the bill as it came to us would have changed it and would have added a financial, monetary penalty. The amendment that you have before you that I am proposing, is a floor amendment to HB 152, says that you can't be penalized with the monetary penalty until you have been notified again that you failed to file. So if you fail to file now, if you adopt the amendment you will still lose your right to appeal, you will still not be eligible for the veteran's exemption and if you get a second notice that you did not file you can be fined with the monetary penalty. You still may be able to write in the same as last year if the amendment is adopted and I urge the adoption of the amendment as proposed and that is the one that you got yesterday sometime.

Amendment adopted. Ordered to third reading.

HOUSE MESSAGE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 537, 586, 608, 590, 1027, 1048, 196, 232, 494, 596, 250, shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 537, relative to licensing pet shops and certain animal shelters. To Executive Departments.

HB 586, to provide for the licensing and regulation of plumbers and making an appropriation therefor. To Administrative Affairs.

HB 608, relative to the responsibilities and reorganization of the division of mental health and making an appropriation therefor. To Joint Public Institutions and Finance.

HB 590, relative to a return transfer of funds from the division of welfare to the division of mental health. To Finance.

HB 1027, relative to funeral expenses for recipients of public assistance. To Public Health.

HB 1048, relative to the workmen's compensation law. To Insurance.

HB 196, authorizing the issuance of non-driver's picture identification cards. To Transportation.

HB 232, amending the method of charging boat registration fees; revising the distribution of boat registration fees; requiring the issuance of annual boat number plates and making an appropriation therefor. To Transportation.

HB 494, establishing a staggered registration system for motor vehicles and changing registration and municipal permit fees. To Transportation.

HB 596, amending the real estate transfer tax. To Ways and Means.

HB 250, relative to providing workmen's compensation coverage for certain search and rescue operation volunteers. To Insurance.

ENROLLED BILLS AMENDMENT

HB 311, relative to notice by the conservation commission to the water resources board on local investigations pending dredge and fill approval. Sen. Bergeron for the committee.

Enrolled Amendment to HB 311

Amend section 1 of the bill by striking out lines 2 and 3 and inserting in place thereof the following:

Water Resources Board. Amend RSA 483-A:4-a, IV (supp) as inserted by 1973, 346:3 by striking out in line 11 the word "seven" and inserting

Amendment adopted

ENROLLED BILLS REPORT

HB 347, relative to the maximum time period for the amortization of loans.

HB 394, relative to the use of funds of credit unions.

HB 395, relative to retirement accounts for credit unions.

HB 668, authorizing the university system of New Hampshire to acquire fire, theft, and casualty insurance.

HB 671, relative to contracts between the state and the 4-H

Foundation of New Hampshire, Incorporated concerning facilities at Bear Brook state park.

SB 6, providing for a power of attorney which survives disability or incompetence of the principal.

SB 8, providing for the cy pres of cemetery trust funds.

SB 58, relative to the rule-making powers of the weights and measures division of the department of agriculture.

HB 108, permitting the liquor commission to issue a special license to certain bowling centers to serve liquor and beverages.

HB 320, relative to secured loaning authority of cooperative banks, building and loan associations and savings and loan associations.

HB 321, relative to applications for mortgage loans from cooperative banks, building and loan associations and savings and loan associations.

HB 322, relative to the unsecured loaning authority of cooperative banks, building and loan associations and savings and loan associations.

HB 441, relative to changing the season on otter, mink and muskrat.

Senator Lamontagne, for the committee.

Senator Bossie moved to substitute a resolution for Senate Resolution 5 which was passed previously.

Senate Resolution 5, requesting an opinion of the justices on Senate Bill 75.

Adopted.

SUSPENSION OF RULES

Senator Downing moved that the rules of the Senate be so far suspended as to allow all bills be placed on third reading and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

SB 334, relative to the transfer of the Manchester and

Nashua policemen to the New Hampshire retirement system and making an appropriation therefor.

SB 253, relative to the examination, certification and registration of arborists and making an appropriation therefor.

SB 368, an act permitting a referendum in the city of Berlin.

SB 364, relative to training in osteopathic medicine and making an appropriation therefor.

HB 370, relative to salaries of full-time justices of district courts.

HB 647, repealing the penalty for neglecting children.

HB 796, establishing an approved absence program in houses of correction.

HB 348, relative to the eligibility of jurors to serve again.

HB 474, permitting persons awaiting trial in superior court to work in a jail or house of correction.

HB 675, relative to the definition of "minor" in the RSA chapter concerning exposing a minor to harmful materials.

SB 254, eliminating the one year full pay provision for totally disabled classified state employees.

SB 339, an act relative to withdrawal from the New Hampshire retirement system.

SB 235, establishing a study commission on child abuse and neglect and making an appropriation therefor.

HB 152, relative to personal property inventory forms.

Adopted.

Senator Bossie moved reconsideration on **HB 370**.

Motion failed.

Senator Rock moved reconsideration on **SB 254**.

Motion failed.

Sen. Rock moved to recess until Monday, May 23, at 12:00 noon.

Adopted.

Out of Recess.

Senator Sanborn in the chair.

COMMITTEE REPORT

SB 335, relative to establishment of a division of graphic

services. Ought to pass with amendment. Senator Rock for the committee.

Amendment to SB 335

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to the establishment of a section of graphic services.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 New Section. Amend RSA 8 by inserting after section 49 the following new subdivision:

Section of Graphic Services

8:50 Definitions. In this subdivision:

I. "Agency" shall mean and include any state board, department, commission, hospital, sanitarium, home, library, school, prison or other institution conducted or operated by or for the state of New Hampshire, excluding the University of New Hampshire, the department of public works and highways, the department of employment security and the general court.

II. "Graphic services" shall mean any method of producing written or pictorial representations and shall include, but not be limited to all forms of photography, photocopy, duplicating and printing.

8:51 Section Established.

I. There shall be a section of graphic services established within the department of administration and control, division of purchase and property and under the direction of a supervisor of graphic services.

II. This section shall have supervisory and regulatory control over all copy centers, all state photography facilities, with the exception of the state police laboratory, all photocopy facilities, all state printing and duplicating facilities and shall also supervise and control all state printing and its procurement.

8:52 Supervisor. The comptroller, on recommendation of the director of purchase and property shall appoint a classified supervisor of graphic services who shall be qualified by edu-

cation and experience, such qualifications to be set by the department of personnel.

8:53 Salary. The annual salary of the supervisor of the section of graphic services shall be determined in accordance with RSA 98.

8:54 Duties. Subject to the direction and supervision of the director of purchase and property, the supervisor of graphic services shall:

I. Organize the work of the section and appoint employees of the section in accordance with the current process of the department of personnel as classified employees of the state of New Hampshire.

II. Subject to the approval of the comptroller, establish uniform rules and regulations that will provide a time and cost efficiency ratio conducive to the elimination of waste and inefficiency. Such rules and regulations shall allow graphics services to be provided in the most efficient and timely manner consistent with high quality and the best available cost.

III. Establish, subject to availability of funds, operating space for the maintenance of an adequate stock of paper, supplies and other material necessary for the efficient operation of all printing, duplicating and other graphics services.

IV. Transfer to the section of graphic services operating and scheduling control over all state owned or leased printing, duplicating, photocopying, photographic and other graphic services equipment except the state police photolaboratory, which shall remain under the control and supervision of the state police, and excepting the university of New Hampshire, the department of public works and highways, the department of employment security and the general court.

V. All legislative printing within the capability of the section of graphic services shall, particularly during any legislative session, have priority over other work of the section.

VI. Arrange that all photocopiers shall be held under the control of the section of graphic services and pursuant to the rules and regulations formulated by the supervisor, enfranchised to departments and agencies as needed.

VII. Each photocopier so enfranchised shall contain a meter to enable the section of graphic services to levy cost charges on its use.

VIII. Use the prison printshop to the extent it can efficiently do so, to function as a vocational rehabilitation facility under the direct supervision of prison authority; provided the

prison printshop shall be entitled to bid on any appropriate state printing job.

2 Purchase of Printing Supplies. Amend RSA 622:28 by striking out said section and inserting in place thereof the following:

622:28 Purchases of Products by State Institutions. No articles or supplies, except printing, such as are manufactured at the state prison by the labor of inmates shall be purchased from any other source for the state or its departments or institutions unless the superintendent of industries shall first certify that the state prison cannot furnish them.

3 Repeal. RSA 12-A:2-a, V relative to required printing by DRED printshop is hereby repealed.

4 Effective Date. This act shall take effect July 1, 1977.

Sen. ROCK: The amendment to SB 335 is on page 22 of the calendar dated May 23rd. Before I get to the amendment I will just give a brief bit of background as to how the bill got to be in its present status. You will remember that we recommended the bill inexpedient to legislate because it was felt that it needed a lot more than was included and that there were some problems with the bill. I voted with the prevailing side in that issue. I was then contacted by several people, including many of the graphic arts industry in the state who had done a two year study on this bill and it was felt after their explanation that there was merit to parts of the bill and that perhaps it should not be scuttled in that way without having the opportunity to see the light of day and to give it a trial. The things that concerned us were first of all, it was felt that the Highway Department had a very effective and good graphic arts department and should not be regulated by this statute. So we took out the Highway Department and exempted them from the bill. It brings under a director of a division the supervisor of the graphics arts works of the state. You know we have several graphics arts print shops throughout the state, Education, DRED, Fish and Game—just about everybody going with a print shop but there is no central requirement where anyone has direction and control from a central source. The amendment was worked out with the Purchasing Department of the state of New Hampshire and the approval of some of the members of the graphics arts industry who worked on the original recommendation. I think that the main things that I can say about the amendment is that as amended it makes

more sense. It doesn't establish a bureaucracy, it doesn't bring aboard a great number of new people and to me this kind of concentration of efforts including the prison, which under current regulations is not allowed to bid on some of the State's work. It just makes a lot of sense. The senate finance committee after working on this amendment and the changes that were incorporated into what was originally an unclear, undefined and not wholly acceptable bill, presents to you know what we think is acceptable and would be a good working tool and can save the state lots of bucks in their printing operation and does establish I think the kind of chain of command and organizational table that will work.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Rock moved to suspend the rules of the Senate so far as to allow an introduction of a committee report on **SB 333** not previously advertised in the journal.

Adopted.

SB 333, an act establishing a department of transportation. Senator Rock for the committee.

Senator Rock moved that **SB 333** be referred to a joint committee of Finance and Executive Departments.

Adopted.

Senator McLaughlin moved reconsideration on **SB 225**, relative to permanent disability and retirement of probate judges.

Senator Bossie requested a roll call. Seconded by Senator Blaisdell.

The following senators voted yea: Lamontagne, Poulsen, Smith, Bradley, Saggiotes, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Provost, Fennelly, Foley.

The following senators voted nay: Bergeron, Jacobson, Monier, Brown, Bossie, Downing, Preston.

14 yeas 7 nays

Adopted.

SB 225, relative to permanent disability and retirement of probate judges. Question of the committee amendment.

Senator Bossie moved to lay **SB 225** on the table.

Division vote: 6 senators voted yea. 14 senators voted nay.

Motion failed.

Question of the amendment.

Amendment to **SB 225**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

making probate judges full time, providing permanent disability and retirement benefits for probate judges, directing the superior court to assign probate judges as marital masters, authorizing the use of lay persons as marital masters in certain cases, and making an appropriation therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Full-Time Judges. Amend RSA 547:13 as amended by striking out said section and inserting in place thereof the following:

547:13 Practice of Law Prohibited, Full Time Position. No judge of probate shall be permitted to engage in the practice of law to any degree, nor shall he be associated with any other attorney. He shall devote his full time to his duties as probate judge and as a marital master as directed by the superior court. His probate duties shall take precedence.

2 Judges Presently Appointed. Any probate judge in office on the effective date of this act may decline to serve full-time. Any judge who so declines, may, notwithstanding other provisions of this act, continue his practice of law, provided,

however, that such judge shall continue to receive the same salary and be entitled to the same benefits that he was entitled to prior to the effective date of this act. Any judge who chooses not to be full-time shall so notify the chief justice of the superior court within 30 days after the effective date of this act, and the chief justice of the superior court shall notify the comptroller as to which judges are entitled to the full-time salary.

3 Permanent Disability; Retirement of Probate Judges. Amend RSA 547:19-a as inserted by 1969, 346:1 by striking out said section and inserting in place thereof the following:

547:19-a Permanent Disability; Retirement of Probate Judges.

I. Any full-time judge of the probate court who shall become unable to perform his duties because of permanent disability shall be retired from regular active service on the bench for the remainder of his term. Such a judge who desires to retire because of inability to perform his duties shall certify to the governor and council his disability to perform his duties, and the governor and council, if they find him unable to perform his duties because of permanent disability, shall order his retirement from regular active service. If such a judge who is permanently disabled to perform his duties shall be unable or unwilling to certify his disability, any 3 judges of the probate court appointed by the governor for such purpose shall certify in writing his disability to the governor and council, who shall, if they find him after due notice and hearing, unable to perform his duties because of permanent disability, order his retirement from regular active service. Any such judge retired from regular service because of permanent disability shall receive the same benefits as he would have received had he retired at full retirement age and such retirement shall terminate his service. The governor and council, upon retirement of any judge as provided herein, shall appoint his successor.

II. As additional compensation for services rendered and to be rendered, any full-time judge of the probate court who retires upon attaining the age of 70 years and after having served as such full-time judge for at least 7 years, or after attaining the age of 65 years, and after having served as such full-time judge for at least 10 years, shall receive annually during the remainder of his life an amount equal to $\frac{3}{4}$ of the currently effective annual salary of the office from which he is

retired, to be paid in the same manner as the salaries of the judges of said court are paid.

III. If a full-time judge dies in office, his widow, as long as she remains unmarried, or if he leaves no widow, or at her death, or remarriage, then his child or children under the age of 18 years and until they respectively reach their eighteenth birthday, shall annually be entitled to $\frac{1}{2}$ of the currently effective annual salary payable for the office last held by such deceased full-time judge, as additional compensation for the services of said judge. In case there is more than one child, the compensation shall be divided equally among them.

IV. If such full-time judge dies having terminated his service as such and having become entitled to compensation as provided in this section, or having been retired because of disability, his widow, as long as she remains unmarried, or if he leaves no widow, or at her death, or remarriage, then his child or children under the age of 18 years and until they respectively reach their eighteenth birthday, shall annually be entitled to $\frac{1}{2}$ of the currently effective annual salary payable for the office last held by such deceased full-time judge, as additional compensation for the services of said judge. In case there is more than one child, the compensation shall be divided equally among them.

V. Any full-time judge who is a member of the state employees retirement system may terminate his membership at any time after the passage of this section, and thereupon any accumulated contributions as defined in RSA 100-A shall be paid over to him on written request. No such judge whose membership is not so terminated before his retirement shall be eligible for payments under this section.

VI. Notwithstanding any other provisions of this section, any judge who serves as a full-time judge of probate for less than 7 years at the time of reaching age 70 or less than 10 years at the time of reaching age 65 shall receive annually during the remainder of his life \$8,517.75.

4 Compensation. Amend RSA 547:22 by striking out said section and inserting in place thereof the following:

547:22 Salaries. The annual salaries of the judges in the several counties shall be paid by the state and shall be 95 percent of the salary of the justices of the superior court.

5 Marital Masters. Amend RSA 491 by inserting after section 23 the following new sections:

491:24 Marital Masters. Except as otherwise provided,

whenever the court shall appoint a marital master to hear domestic relations cases, the court shall assign a probate judge if one is available. The probate judges shall cooperate with the superior court to make themselves available for such assignment to the extent consistent with their probate duties. Such judges may be assigned to sit as a marital master in any county. Probate judges who act as marital masters shall receive no extra compensation but shall be entitled to reimbursement for actual expenses and travel incident thereto.

6 Family Council. Amend RSA 458 by inserting after section 9 the following new section:

458:9-a Marital Masters Family Council.

I. Notwithstanding RSA 491:24, the court shall establish on an experimental basis in one or more counties, a non-adversary family council as part of the courts marital master program. Said family council shall consist of 3 marital masters who shall sit as a body. One of the marital masters on the family council shall be a probate judge or attorney and the other 2 marital masters shall be persons educated and experienced in domestic relations matters who are not attorneys. The 2 non-attorney members shall not be of the same sex. Members of the council other than a probate judge shall be compensated in the same manner as other masters appointed by the court pursuant to RSA 491:23.

II. The family council shall be non-adversary in form and shall hear the same matters as are referred to other marital masters. If a proceeding assigned to the family council becomes adversary, the council may in its discretion refer the matter to a regular marital master or to the superior court.

III. The superior court shall report to the next regular session of the general court its recommendations for expanding, continuing or discontinuing the family council program.

7 Fee Added. Amend RSA 548 by inserting after section 23 the following new section:

548:23-a Charge for Final Account. Notwithstanding any other provision of this chapter, for each final account filed where the gross assets as shown thereon exceed \$5,000, the register shall collect a charge of one tenth of one percent of the value thereof. He shall, within 10 days after the end of each month, remit the same to the state treasurer to be paid into the general fund of the state.

8 Repeal. RSA 547:23 (supp) relative to special sessions of probate courts is hereby repealed.

9 Salaries Removed. Amend RSA 94:1-a (supp) as amended by striking out the line reading

“Judges, probate court 11,357.”

10 Appropriation. There is hereby appropriated to be expended for the purposes of this act the sum of \$250,000 for fiscal year 1978 and the sum of \$250,000 for fiscal year 1979. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

11 Effective Date. This act shall take effect 60 days after its passage.

Sen. BRADLEY: Mr. President, this was a bill that was debated last Thursday and sent to interim study by the senate at that time. This is a bill that would make the probate judges full-time, or give the judges the option to go to full-time and those who opted to go with full-time to be given the job of marital masters to the extent that they are available, it would prohibit them from the practice of law from any other form of income like other full-time judges and would give them the same scheme of retirement package subject to Senator Healy's provisions as other judges now have. I think the matter was fully debated, I would be glad to answer any further questions. The amendment which was passed out included Senator Jacobson's proposal for family court which is not now applicable and if the amendment of the committee were to pass I would then move a further amendment to strike out Senator Jacobson's family court from the bill which isn't at all necessary to the scheme of the bill as I have explained it.

Sen. BOSSIE: Mr. President, I rise in opposition to the motion of reconsideration of SB 225. Senator Bradley was right when he did say we had a very long and thorough discussion of the merits of the bill. I think that most of us came to the conclusion that we didn't want to kill the bill, we wanted to study it further because, some of it at least, had merit. There is no reason on a bill of this nature, we have had the probate court system the way it has been for a couple of hundred years that we need to rush into anything. I am very surprised and I don't like the precedence on a bill of this nature that when you have a close roll call that you have to move reconsideration immediately of every bill of this nature. What has happened in the interim is that the lobbyists have gotten ahold of everybody and tried to twist a few votes around cause all they need is a few votes to twist around.

There hasn't been anything that has transpired since last Thursday which could or would convince me of the immediate need of a bill of this nature. I know that many of you have strong feelings about the bill and certainly a number of the probate judges are my friends but the fact remains if we are going to pass wisdom in our bills we should at least give them deliberation and we should consider every word of a bill and the complete significance of converting a system of this nature into giving pensions when the state really cannot afford it; to making full-time marital masters when we don't need it. We have a decent system the way it is. So I ask you to vote no on this motion for reconsideration and this has gone to the Judiciary Committee under the past motion for interim study. I for one, intend to give it my fullest deliberation and that part that can be salvaged hopefully will be taken out and when we report to the regular session in two years certainly we should have an agreed bill at that time. I urge my colleagues to vote no.

Sen. BRADLEY: Senator Bossie, you mentioned that it called for an expenditure of money we cannot afford. You are aware aren't you that there is a provision in here for funding the expense under the bill which should be more than sufficient to cover the expenses?

Sen. BOSSIE: Do you refer to the \$10 fee?

Sen. BRADLEY: I referred to the fee which is now on a percentage basis rather than on a flat basis.

Sen. BOSSIE: Is that in the amendment.

Sen. BRADLEY: Yes.

Sen. BOSSIE: Frankly if I am not aware of it 99% of our colleagues are not and so you really want them to vote on something they aren't aware of so I urge you to withdraw your motion.

Sen. JACOBSON: Mr. President I rise in opposition to this amendment and I am deeply disturbed about what is happening here today. We have had the separation of powers of the Judiciary and the Legislative and the Executive and here we have an inference of probate judges and judges in general hiring people, Jack Milton and Bill Craig to be lobbyists. What in the world are we doing here? I think it is a sad day when we get into that kind of circumstance and I realize that the people have been lobbied and they have had their votes changed and it is a bad situation. I want to be on record as being totally against this kind of action, this kind of weekend lobbying. I

think it is one of the worst examples I have seen in the five terms that I have been here in the Senate.

Sen. BRADLEY: Senator Jacobson you don't object when the executive branch hires lobbyists to come around and lobby people do you?

Sen. JACOBSON: Let me tell you senator, the judges are constantly saying that they are non-political. How can you say that they are non-political in this tremendous lobbying effort that is going on today? Now executive branch is political and it has a relationship but the judges are supposed to be non-political and yet they have been lobbying paying high-powered lobbyists.

Sen. BRADLEY: Senator you act as if there had never been anyone on behalf of the judges appear in these legislative halls in the past. Now you know, don't you, that for years either the judges themselves or others on their behalf, have come before this legislature in a perfectly normal fashion to advise the legislature, involve the legislature if you want to use that term, on their interests. Now you don't know of any instance where the judges are out on politics that doesn't involve a judicial matter do you?

Sen. JACOBSON: Let me tell you Senator, the judges are you know it.

Sen. SMITH: Senator would you believe me if I told you that this concept that is envisioned in this bill has been something for which I have been favorable to for probably 12 to 15 years. I did not vote on it but would you also believe that nobody contacted me over the weekend on it?

Sen. JACOBSON: Well if you have been in favor of it for 12 to 15 years they wouldn't have needed to contact you.

Sen. LAMONTAGNE: Mr. President, I want the record to show that I haven't been contacted by any judges and in fact no one has ever said anything to me about the bill at all. Although if you look at the record I think you will see that I have supported and been co-sponsors of bills for the judges.

Sen. BOSSIE: Mr. President, I have asked the clerk here to make copies of the proposed amendment that Senator Bradley proposes, so at this time I propose to lay the bill on the table.

Division vote: 13 senators voted yea. 8 senators voted nay.

Amendment adopted.

Senator Bradley moved a further amendment to **SB 225**.

Amendment to **SB 225**

Amend the bill by striking out section 6 and renumbering the original sections 7 through 11 to read as:
6 , 7 , 8 , 9 , and 10 respectively.

Further amendment adopted.
Question of ordering to third reading.

Senator Bossie requested a roll call. Seconded by Senator Jacobson.

The following senators voted yea: Lamontagne, Poulsen, Smith, Bradley, Saggiotes, Blaisdell, Trowbridge, Rock, McLaughlin, Keeney, Hancock, Fennelly, Foley.

The following senators voted nay: Bergeron, Jacobson, Monier, Healy, Provost, Brown, Bossie, Downing, Preston.

13 yeas 9 nays

Ordered to third reading.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Monday, May 23 at 12:00 noon.

Adopted.

Late Session
Third Reading and Final Passage

SB 335, an act relative to the establishment of a section of graphic services.

SB 225, making probate judges full time, providing permanent disability and retirement benefits for probate judges, directing the superior court to assign probate judges as marital

masters, authorizing the use of lay persons as marital masters in certain cases, and making an appropriation therefor.

Adopted.

Senator Provost moved to adjourn from May 19.

Adopted.

Monday, May 23

The Senate met at 12:00 noon.

A quorum was present.

The prayer was offered by Senator Jacobson.

Our Father, our prayer is that we remain committed to public purpose and not succumb to ulterior pressures.

Amen

Senator Preston led the Pledge of Allegiance.
(Senator Sanborn in the chair.)

Senator Healy spoke under Rule No. 44.

HOUSE MESSAGES

Senator Monier spoke under Rule No. 44.

HOUSE REQUEST CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 1000, 284, 1126, 479, 518, 601, 543, 828, 556, 1096 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

First and Second Reading and Referral

HB 1000, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 1978 and June 30, 1979. To Finance.

HB 284, making the deputy commissioner of safety a group II member of the New Hampshire retirement system. To Finance.

HB 1126, relative to the New Hampshire retirement system and the state employees' retirement system of New Hampshire. To Finance.

HB 479, relative to disability retirement benefits under the New Hampshire retirement system. To Finance.

HB 518, relative to retirement benefits for teachers who retired prior to 1957. To Finance.

HB 601, providing cost of living increases for all members of the New Hampshire retirement systems. To Finance.

HB 543, relative to mining and the reclamation of mined lands and making an appropriation therefor. To Environment.

HB 828, creating the position of deputy commissioner of health and welfare. To Public Institutions and Finance.

HB 556, authorizing certain stores to sell table wine. To Ways and Means.

HB 1096, establishing and funding a highway transportation fund to aid the elderly and handicapped. To Finance.

HOUSE CONCURS IN SENATE AMENDMENT

CACR 5, relating to granting of pensions by the Legislature.

Providing that the requirements that pensions be granted for not longer than one year at a time be repealed.

HB 296, providing for the amendment of articles of agreement or legislative charter by a mutual savings bank or a guaranty savings bank.

HB 102, prohibiting the removal of serial numbers from certain products and changing the penalty classifications for theft.

HB 147, relative to the employment of an auditor by a school district.

HB 475, providing for payment of a claim to Charles R. Sargent of Laconia and making an appropriation therefor and relative to the payment of small claims by the department of Public Works and Highways.

HB 7, increasing the number of resident New Hampshire members of the New England Board of Higher Education.

HB 84, relative to temporary loans issued under the municipal finance act.

HB 98, relative to an agency's readoption of edited rules and relative to notice requirements in the rule adoption procedure.

HB 109, relative to official state songs.

HB 79, relative to the location of cemeteries.

HB 361, relative to the penalty provisions for violations of statutes and rules pertaining to aeronautics.

HB 569, amending the charter of Coe-Brown Northwood Academy.

HB 6, granting reciprocity to certain licensed cosmetologists from other jurisdictions, if that jurisdiction participates in national testing.

HB 215, permitting the posting of "for sale" signs in mobile home parks.

HOUSE ACCEDES TO COMMITTEE OF CONFERENCE

SB 39, requiring the mailing of resident tax bills within 30 days of the receipt of the tax warrant by the tax collector.

The Speaker appointed Reps. R. Hanson, Packard, T. O'Connor and Pepitone.

SB 49, exempting certain vehicles from the motor vehicle title law.

The Speaker appointed Reps. Tavitian, Sing, Clark and Arline Dion.

SB 48, forbidding entertainers less than 18 years of age from working in places where liquor is sold.

The Speaker appointed Reps. Cunningham, Lawton, Demarais and Rounds.

HOUSE NONCONCURS IN AMENDMENTS AND REQUESTS A COMMITTEE OF CONFERENCE

HB 187, amending the penalty provisions of the mobile home park law.

The Speaker appointed Reps. Aller, Bodi, Lewko and Carpenito.

Senator Bradley moved to accede to the Speaker's request for a committee of conference.

Adopted.

The chair appointed Senators Bradley, Keeney, and Foley.

HB 275, relative to the membership of the legislative utility consumers' council and expanding the council's jurisdiction.

The Speaker appointed Reps. Lyons, Aller, Benton and G. Gagnon.

Senator Brown moved to accede to the Speaker's request.

Adopted.

The chair appointed Senators Jacobson, Brown, and Bossie.

ENROLLED BILLS AMENDMENT

SB 27, revising the occupational regulations relating to barbering. Senator Lamontagne for the committee.

Enrolled Amendment to **SB 27**

Amend section 1 of the bill by striking out line 5 and inserting in place thereof the following:

striking out in lines 24 and 25 the word and numeral "section 9" and inserting

Amend section 4 of the bill by striking out line 2 and inserting in place thereof the following:

striking out in lines 3-5 the words "who must be at all times under the supervision

Amendment adopted.

COMMITTEE REPORTS

HB 525, authorizing a transfer of funds between two projects in the 1975 capital budget. Ought to pass. Senator Blaisdell for the committee.

Sen. BLAISDELL: This bill authorizes a transfer of \$30,000 from the Capital Budget of 1975. As you remember there was \$600,000 left over from the safety building and they ran short of \$30,000 for the completion of True Bay Station and we ask your support this bill and it was unanimous in the committee to transfer the funds.

Senator Bergeron moved that HB 525 be laid on the table.
Motion failed.

Adopted. Ordered to third reading.

HB 905, relative to the licensing of businesses in a town. Inexpedient to legislate. Senator Monier for the committee.

Senator Monier moved to recommit HB 905 to the committee on Executive Departments.

Adopted.

HB 836, relative to the taxation of residence in industrial or commercial zone. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President this bill deals with a very serious problem in the state and I have to use an example to point up the issue itself. If an area is zoned commercially or industrially for example and a person owns a home in several of the towns and cities what they do they then start charging a property tax on the basis of an industrial tax. This bill allows this not to happen for a particular period of time. The rest is

unclear.

Sen. SMITH: I have some concerns with the bill that I would like to get some information on it. I have tried to make a few telephone calls to find out about it and I would just like to hold this over till tomorrow Mr. President.

Senator Smith moved that HB 836 be made a special order for Tuesday, May 24 at 3:03 p.m.

Adopted.

INTRODUCTION OF GUESTS

HB 795, permitting a county to borrow money in anticipation of federal or state aid or both. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill only gives the counties the same rights the towns already have which is to borrow in anticipation of federal money, in other words to bond for it.

Sen. JACOBSON: Is this on capital indebtedness?

Sen. POULSEN: On any grant that was coming in for whatever purpose.

Counties had no method of borrowing in anticipation of that before this, this gives them the same borrowing power that towns have already.

Sen. JACOBSON: I am not sure that the towns have the power to borrow in anticipation of revenue sharing, do they?

Sen. POULSEN: I thought they had anticipation in borrowing for federal money.

Sen. JACOBSON: The only ones that I know that we can bond in anticipation of capital such as a sewer project but not for revenue sharing that I know of. Because revenue sharing can often times be operating costs. And it becomes a write-off from your tax because you have a system whereas if you get the money it becomes income.

Sen. POULSEN: I am not clear on the point but I do realize it is not for operating money it is for capital improvements, expenditures and things like that if money is known to be available for them, for instance the sewer project, they can borrow for it.

Sen. JACOBSON: Does any county have a sewer project?

Sen. POULSEN: Not that I know of.

Sen. JACOBSON: Did they give you any examples of capital expenditures that would come under this category?

Sen. POULSEN: The only one that I can think of is revenue sharing but there must be others.

Sen. JACOBSON: If they should not get the money and they borrow then it comes out of the county tax rate.

Sen. POULSEN: That's right.

Sen. JACOBSON: In the testimony that was offered do they then have a contractual relationship as in sewer projects when they borrow or do they not?

Sen. POULSEN: I am not sure that I understand you Senator.

Sen. JACOBSON: For example in a local community you can borrow when you have made the contractual relationship with the government and once that is gone through with then you borrow.

Sen. POULSEN: I would presume it would be the same case but I would presume this would be more in line with building a courthouse, new county building, jail or things like that.

Adopted. Ordered to third reading.

HB 653, imposing a deadline for the adoption of a county budget and requiring the signature of the chairman and the clerk of the convention for filing the adopted budget. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: (Unclear.)

Adopted. Ordered to third reading.

HB 198, giving village districts authority to maintain ambulance service. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: (Unclear.)

Adopted. Ordered to third reading.

HB 941, permitting an appeal from the granting of a license

to operate a motor vehicle junk yard. Inexpedient to legislate. Senator Monier for the committee.

Sen. MONIER: The committee felt because of the amendment that had been added by the House and the testimony that was given in regards to it, that the bill ought to be inexpedient for this session. On the base of it the bill seems to do exactly what most want it to do which is being able to grant an appeal or a change or some other form of junkyard, a motor vehicle junkyard particularly. There were no objections on the part of the attorney general with the original bill but the amendment he opposed on the basis of the legal language and no real restrictions on the administrator at all. Several other people mentioned this at the same time. The original bill allowed an appeal by any aggrieved person in case a request was granted, the amendment which was added to it, says not just any person but an abutter and it was noted that there was rather vague terminology and legally probably we would have some problems according to the attorney general. Further the public works and highway man in charge of these types of things testified before the committee to the effect that of all the hearings they have had there have been only 2 or 3 appeals. They haven't had any problem with it and he was again against the amendment as well and had some questions about the original bill. The state agency in checking they do their own checking of it. They check for compliance with the federal law, with duplication projects etc. and they expressed some concern over the amendment itself. Even the committee itself talking about this wondered if at what point you have an agreement it is not an abutter according to the legislation and we just felt that it had been chopped up so badly that it would be better to let it ride. And therefore it came out inexpedient to legislate for those kinds of reasons and I ask the support of the Senate.

Sen. FOLEY: Senator Monier, is this the bill that pertains to the city of Portsmouth and the Portsmouth authority?

Sen. MONIER: No I don't think so.

Adopted.

HB 916, permitting planning boards to require a subdivider to install prescribed traffic control devices. Inexpedient to legislate. Senator Monier for the committee.

Sen. MONIER: Mr. President, once again we have a good bill and badly put together we feel. This bill would permit a planning board to require a subdivider to install traffic control devices as a prerequisite for a conditioned precedent to the approval of the plat. Now that sounds great because there are a lot of subdivisions in which you do create traffic. But when we started asking questions of it, Mr. Bednar and Representative Pepitone were a little bit more vague in terms of who would pay for this traffic control and on what basis. For example questions were raised about if this subdivider came out onto a highway maintained by the state or provided for by the State or the upkeep was done by the state the federal regulations on respect of using money for the installation of these types of things would require a specific kind of a traffic study. When we asked as to conflict and who does it, the traffic study who would pay for it, and basis for installing it and so forth there weren't any questions. I think the intent of it was that the subdivider or developer would be the one that would have to come up with a traffic count etc. The question as to what was not satisfied however as to whether then, that would satisfy the federal regulations or the state regulations or the state highway department if it did on this. As a result of this, once again we felt it was a good contact. There were not enough specifics with it as to how to bring about how this was going to be brought into effect and who would do it.

Adopted.

HB 208, relative to public hearings on variances of zoning regulations. Inexpedient to legislate. Senator Poulsen for the committee.

Senator Poulsen moved that HB 208 be recommitted to Executive Departments.

Adopted.

HB 781, to require notice of application for, or modification of general assistance to be given to the municipality of settlement. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President, I got a little confused with this bill when we saw it but once somebody explained to me what community settlement was we were alright. You have

people that the town is responsible for on the basis of their own assistance to those people. If they are in another city or town and are paid by that city or town, there is now no legal ramifications with respect to that city or town being able to notify the original so that they may be included in their budget as to what the cost of this assistance may be. Town A has a John Doe in it who moves or goes and lives in Town B. Now Town B must pick up that welfare assistance to him but there is nothing on the statute of the books at the present time by which Town B notifies Town A so that Town A who is responsible for paying it must put it in his budget. This bill corrects that situation and once I understood what they meant by community settlement, that it wasn't alcoholics anonymous, I was alright and I urge that we pass this immediately.

Sen. BOSSIE: Wouldn't it be a warranted thing in this and I agree with the idea of the bill, wouldn't it be a wiser thing to put that no town shall be responsible until such time as they have been notified. Just because a town as many of them will do, because they won't be aware of this law, they won't give the notice, the bill doesn't say in it if it is perspective or not or retroactive, so we would presume that it would be perspective with regards to the future. Rather than say if they don't notify them within 3 days they are going to lose any lien that they may have to say that they have to give them 25 days notice as is in the bill?

Sen. MONIER: Senator Bossie, I can't answer you. I did ask the question about the time element and the response that I got from the person who was most knowledgeable about this and who testified, there were others, and part of the problem is that there are many cases where they don't know themselves in a city like Concord, that this person is going to receive this for 8 or 10 days. Then the minute they do she now has a system by which she tries to notify them by telephone. But in some of these cases in the smaller towns, the people that are handling that kind of welfare assistance, are not at home, are part time or around. She felt that the 25 days was sufficient time and you will note that if it is not given within that time then the person from that town with the legal settlement is not responsible for the ones that are expended and therefore it behooves the city or Town B to make certain that they get it right away else they are stuck with it. And that was brought out in the testimony. I just thought that it was better than the situation we now have in a town and

there is a second part to that, and that is that town budgets are usually prepared once a year anyhow unless you were right in the last 30 days of it you wouldn't have that kind of a problem.

Adopted. Ordered to third reading.

HB 681, relative to the disposition of municipal records. Ought to pass as amended. Senator Preston for the committee.

Amendment to HB 681

Amend RSA 33-A:1, II and III as inserted by section 1 of the bill by striking out said paragraphs and inserting in place thereof the following:

II. "Municipal" refers to a city or town, county or precinct.

III. "Municipal officers" means:

- (a) in the case of a town, the board of selectmen.
- (b) in the case of a city which has adopted the council manager plan under RSA 49-A, the city manager.
- (c) in the case of any other city, the mayor.
- (d) in the case of a county, the county commissioners.
- (e) in the case of a precinct, the precinct commissioners.

Amend RSA 33-A:4-a, I as inserted by section 3 of the bill by inserting after subparagraph (i) the following new subparagraph:

- (j) a representative of the department of revenue administration.

Sen. PRESTON: This bill establishes a municipal records board on the state level. The amendment is a simple one on page 24. It simply adds the precinct as another form of government and refers to municipal records, town, county or precinct and it adds the Depart of Revenue Administration, representative as a member of the board. The needs cited for this was in towns such as Exeter during the bicentennial year last year that some of the old and valuable records down there had been used by some people. The phrase self-appropriated has been used when some people have gone into

the files without any supervision so it was thought that this would be a better protection on some of our old colonial documents that exist in the towns today.

Amendment adopted. Ordered to third reading.

HB 299, to provide New Hampshire home for the elderly classified employees a differential pay increase. Ought to pass. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: This bill will cost the State \$13,100 a year. When we gave the payraise to all the custodial care people at the Hospital and Laconia State School we forget to give them to the New Hampshire Home for the Elderly at Franklin. It is only \$5.00 a week for those who are in custodial care and to make equity among all the people who are giving custodial care we should pass this bill.

Adopted. Ordered to third reading.

HB 305, reclassifying certain positions at Laconia state school. Ought to pass. Senator Trowbridge for the committee.

Sen. TROWBRIDGE: On much the same issue this bill has to do with Jack Melton's problems in hiring his professional staff at Laconia State School. About four years ago the doctors and professional people at New Hampshire Hospital were made unclassified and were given salary ranges that related to how you hire doctors. The people who are the medical, dental and psychiatric at Laconia State School however, have remained in the so-called classified section and their salaries are ranging from \$21,000 to \$24,000 and he simply cannot keep his people. This bill would give in the same way, the top group at the Laconia State School, make them unclassified and put them in ranges of \$24,000 to \$29,000 which is the same range as the professional staff at the New Hampshire Hospital. It is the same problem and there was no opposition. The committee figured out that it would cost, because some of these people are already on-board and they are saying well, if I don't get something I am going to leave, as a doctor, I can get a lot more than this—we figure it costs \$52,000 a year to make this shift over.

Adopted. Ordered to third reading.

HB 1139, relative to the judicial budget procedure. Majority—Inexpedient to legislate; Minority—Ought to pass. Senator McLaughlin for the majority.

Senator Smith for the minority.

Senator Smith moved that the words “ought to pass” be substituted for the words “inexpedient to legislate.”

Sen. SMITH: Mr. President, this is a rather simple bill. All it does is to say that the supreme court and superior court or those courts which are state-financed, will not have to present their budget to the governor and to the comptroller previous to the legislature meeting. That they present their budget directly to the legislature and that the chief justice's office be empowered through their staff to prepare the budget. This seems to me and to others who are in the minority a reasonable piece of legislation. What it really does is to say that all three branches of state government are equal. The legislature does not submit its budget to the governor before the legislature meets. The governor may put something in his budget for the legislature but we take our own action on legislative matters. It is felt by the judiciary that they should have that same privilege. Now it seems to me a reasonable piece of legislation. It would also mandate that if there was a transfer of funds within the judicial branch that this could be done by the chief justice, by the courts rather than having to go to governor and council. It was felt I think by those in the minority that this was a sound piece of legislation.

Sen. BLAISDELL: Senator isn't it true that Justice Douglas wanted to be recorded in favor of this bill and wanted to speak to Senate Finance on this particular bill?

Sen. SMITH: I believe yes.

Sen. ROCK: Following along the logic that you propose as to the separation of the powers of the legislative and the judicial, couldn't we assume that the next step would be that the judicial branch would then state, well we don't think we should have to go before governor for our presentation—we'll go directly to the legislature. Then next time we don't think the legislature should have any approval over what our budget is because we are completely separate and distinct and therefore our budget is this much and you approve it.

Sen. SMITH: I don't think that that has anything to do with

it. Through our constitution we are the raiser of funds, the governor presents his budget to us and for the departments and for the executive branch and we approve that budget. That is a function of the legislature.

Sen. ROCK: Doesn't the judiciary have to follow all of the other procedures and processes when for instance we change the laws under which they operate, that has to go to the governor for his signature, do we then exempt that process so that they would have just their legislation passed and not have the governor sign it?

Sen. SMITH: No. This is a very simple bill. What you are talking about would require extensive constitutional amendments and I don't think there is any thought along that line. All this does is say instead of submitting the budget to the governor preceding his being sworn into office during those budget hearings in the late fall of the odd numbered year, he would submit them to the legislative branch, then legislative services for submittal to the legislature directly.

Sen. ROCK: I think it was you who introduced me first to the phrase the camel has his nose in the tent. Would you believe that this simple bill appears to me to be the camel sticking his nose in the tent?

Sen. SMITH: I think he is well beyond and over the sand dune. I don't think he has come anywhere near the tent.

Sen. McLAUGHLIN: Mr. President, members of the Senate, I rise in opposition to the pending motion to HB 1139. I think this is just the right step whereupon the judicial won't have to report to anyone in the very near future, have their own budget, spend their own money, appoint their own judges and so forth. I don't believe that we should pass this bill at this time. That they should be able to come into us and say we want this money, it would be pretty hard to stop it and I don't think that this bill is good for us at this time and I hope that we all vote inexpedient to legislate on this bill.

Sen. SMITH: Senator are you implying that after we approve the budget of the judicial branch if this bill were passed, that the governor would not even have to sign the budget bill?

Sen. McLAUGHLIN: No.

Sen. TROWBRIDGE: I would like to say that Senator McLaughlin has learned to use hyperbole to a wonderful extent. This little thing here means that after a while the judiciary won't even have to report in to appoint its own judges. I defy you to find anything about that in this bill.

Again, what Senator Smith says is right. Years ago and all the way along, the legislature does not have to submit its budget to the governor. The legislature makes its own budget. Obviously the governor can veto the legislature by vetoing the budget. But all the judiciary is saying is we will do the same thing as the legislature. We'll come in with our budget but it still has to go through the process and if any of you have ever been to the governor's hearings where they run the budget, the whole thing through in a week, you will know that you are not getting any saving out of having that done through that process because it is not a very worthwhile procedure. We spend all our time making up for the mistakes that are made in that process and so you are not going to be getting anywhere either. I think you ought to pass this bill, it is right along the separation of power route. Not a bad route to go.

Sen. JACOBSON: As I understood the explanation there was another part to it with transfer of money, is that correct?

Sen. TROWBRIDGE: All it says is that they are not coming in on the dollars. When we come through with our budget we will come in and we will be asking for, a footnote asking for transfer and they are being overly solicitous saying that they will have a bill allowing us to ask for the ability to transfer within the three courts. It doesn't have to happen, if the budget footnotes doesn't hold it it won't. Right now I think we are all considering that we are going to have to ease up on this transferring between lines because that is what is bringing in all these funny little bills where there is enough money in one account but not in another. So that is what they are talking about.

Sen. JACOBSON: Senator you have so muddled me now that I don't know what the answer to the question was.

Sen. TROWBRIDGE: It mentions the transfer thing Senator and can we come in and say if we have a surplus in the superior court accounts can we transfer it over to the supreme court account. That kind of thing they can ask for now of the legislature. Oftentimes we will give a right to switch accounts without going through governor and council. That's just the statutes that says they have to go through governor and council.

Sen. JACOBSON: Does the bill say that they can do it internally then.

Sen. TROWBRIDGE: It will say that within their court

system, they are asking us to be able to transfer out of current expense.

Sen. JACOBSON: Could that also mean that they could transfer from current expense to any other account to increase the personnel?

Sen. TROWBRIDGE: They could but they could not put on another judge because that has to be done by statute.

Sen. JACOBSON: They could put on administrative assistants and the like.

Sen. TROWBRIDGE: Sure. But then if they don't have the current expense money there is not much use in having an administrative assistant if he doesn't have a telephone or a typewriter. There are pretty good constraints on that. Marshalling of your funds I think is very important.

Sen. LAMONTAGNE: Then as I understand it it would be just a question of how they would do their budgeting?

Sen. TROWBRIDGE: It is how they present their budget and to whom and constitutionally they are saying that it is wrong for the executive branch to make them come to the executive branch. This is being constitutional. And what I am saying is that's exactly what happens is that they come to the legislature and we make up their budgets anyhow. So there is no change in essence for what goes on.

Sen. ROCK: Senator Jacobson, do you have a copy of this HB 1139?

Sen. JACOBSON: Yes I do.

Sen. ROCK: Being one of those who opposed it in the committee would you look with me on page 2 roman numeral 1, and I will read to you from that paragraph: "A. The judicial planning committee, subject to the approval of the supreme court, shall prepare biannually, a consolidated budget for all courts requiring State funding. Such budget to be known as a judicial department operating budget. Now would you tell me whether or not there might be some interpretation or misinterpretation on the words shall and requiring? Wherein we might find ourselves in the position of what the consolidated budget the court shall prepare we as the state would have to under this paragraph, be required to fund it?

Sen. JACOBSON: I would say that it probably approaches the same system that is used in the counties with respect to the municipalities in which they prepare and tell us and we will have to pay it.

Sen. BRADLEY: I rise in support of the motion ought to

pass. This is not an earth shaking thing as has been pointed out. But it is something which again has been studied for a long time, the Judiciary, as I understand it, is often the way it is done in other states. There is a principle here of separation of powers and those who have studied it feel that we ought to do it this way because it does help to support the concept of separation of powers. As far as the nose of the camel into the tent that is a lot of baloney. Senator Jacobson's interpretation of the section that Senator Rock just read is also just a lot of baloney. You could just as well as used the word needing state funding, it would have meant the same thing. All that is referring to is the courts that have a state budget. That is all that is talking about. There is nothing in there that could possibly give the Judiciary the power to appropriate money for themselves. You couldn't do that without amending the constitution. The constitution says that this legislature is the appropriating body and this bill is not going to change the constitution.

Sen. SMITH: Senator Bradley you were talking about a lot of sausage has been flying around here today. Senator Jacobson made a comment about this being a mandate like the counties with the towns. Would you say that was a fair corollary?

Sen. BRADLEY: I would say that that is as inappropriate a corollary as I can think of.

Sen. SMITH: Senator what this means on section 1, all it says is that the judicial planning committee with the approval of the chief justice shall prepare a budget which he would submit then to the legislature for their changing and ratification. Secondly, on the transfer of funds Senator, on the bottom of page 1, this does not allow for instance the transfer of funds between the supreme and superior court. Only within the superior court or within the supreme court and only for certain functions. Would you say that was a fair statement?

Sen. BRADLEY: That is a fair statement.

Sen. TROWBRIDGE: Senator Bradley, are you aware that right now, for the last 8 years that the judicial branch under the leadership of George Papigoulous has put together a consolidated, judicial budget and has come before the legislature just as this bill says it should and has done this consistently for the last eight years. Do you know that?

Sen. BRADLEY: I wasn't aware of that but I am interested to know that.

Division vote: 10 senators voted yea. 11 senators voted nay.

Motion failed.

Question of inexpedient to legislate.

Senator Smith requested a roll call. Seconded by Senator Lamontagne.

The following senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Jacobson, Saggiotes, Rock, McLaughlin, Keeney, Provost, Brown.

The following senators voted nay: Smith, Bradley, Blaisdell, Trowbridge, Hancock, Healy, Bossie, Fennelly, Preston, Foley.

11 yeas 10 nays

Adopted.

HB 623, relative to reporting of collateral resources by a welfare recipient and persons liable for support of a dependent child or of a welfare recipient. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: This bill is saying that in 5 days rather than 15 days, a welfare recipient will report to the department if they have a change in resources or income. At the present time they have 15 days to do it and now they will have to do it in 5. The bill was requested by the Division of Welfare. I recommend its passage.

Adopted. Ordered to third reading.

HB 434, relative to certification of shared homes for adults. Ought to pass. Senator McLaughlin for the committee.

Senator McLaughlin moved that HB 434 be recommitted to the committee on Public Institutions.

Adopted.

HB 790, relative to cancer drug therapy. Ought to pass. Senator Rock for the committee.

Sen. ROCK: I must say that this hearing was one of the most interesting that I ever have had the privilege of attending. We heard some very interesting testimony at that hearing. I have here just a sample of some of the material that was submitted to us in respect to the drug Laetrile. I have to clearly state to the Senate that through all the testimony, documents, and all the information contained in the package, even from those opposed to the passage of this bill, there was not one single instance where there was any evidence shown that the drug, and I use the word rather loosely as most of you have read or heard, this substance comes from the ground up interior of an apricot pit, not one single instance was there a case where Laetrile could be proven in any way, in any way whatsoever to be harmful to an individual. I am a great believer in the power of positive thinking. I have always believed that if you think hard enough and work and believe hard enough, miracles can be accomplished. I know and I am sure you have all heard of cases where physicians have prescribed nothing more than sugar-coated pills and because people thought they were getting some sort of medicine they actually willed and wished and made themselves better. I don't in any way mean to confer that I am relating Laetrile to a sugar-coated pill. But I really have read with interest and listened to testimony where people taking this drug have received either marked improvements or cures of the dreaded disease, cancer. In each of these cases there has been opposing testimony to say that there might have been some other reason the person got better or improved. But the reason that I am supporting passage of the bill is not on any medical experience I have or any basis of my investigation of the qualities of the drug. I am proposing its passage for two reasons. Number one, the strongest opposition came from the Federal Food and Drug Administration and these are the wonderful gentlemen who took away sucaryl and saccharine, these are the wonderful people who tell us that swordfish is terrible and anybody who eats swordfish is going to die of mercury poisoning and they are the ones that have the little sign on the side of cigarettes that says that cigarettes are harmful to your health but our federal government still keeps pumping out cigarettes and we still keep collecting the taxes. I have lost a great deal of faith in the Food and Drug Administration. Frankly, I have very little faith in their latest decision that I have to forego saccharine which I have used for years,

my family has used it for years. We started using it when the sugar crisis began to climb, I thought it was ridiculous to spend that kind of money on sugar. Now I find if I drink 800 cans of tab a day I'm liable to get sick. I have also seen that if you can drink enough plain water in a way you would also make yourself ill. I see no more harm with this substance any more than if you drink 3 or 4 cans of apple juice a day or ate a lot of apples or prunes or raisins, that you probably will feel better and bran is good for you and Laetrile can't hurt you and I don't see any problem with the substance or the bill.

Senator Smith moved that HB 790 be indefinitely postponed.

Sen. SMITH: What Senator Rock said is all very true. I am not very happy with the Food and Drug Administration—I like swordfish and I don't eat saccharine—it probably would help if I did. I would probably be as slim as Senator Rock but I am concerned about two things—if people want to take Laetrile that doesn't bother me very much except for one thing, and that is they may use this as a pure substitute for any other kind of treatment and I think that the medical profession is opposed to this for this very simple reason. That people go for something which has proved, it is true, to be not harmful but even more importantly I think their reasoning is that people will substitute this for chemotherapy and other forms of therapy for cancer. The other reason that I move this motion is that I think this is a bad precedent, an exceedingly dangerous precedent. Now the Food and Drug Administration does not know all the answers, they have made some foolish errors but when states start legislating that a drug of one type or another is legal and another state does not make it legal we are opening up an area for black market-type operation in the area of drugs. I think this is a highly dangerous precedent and for these reasons I rise in opposition to the bill.

Senator Bradley moved to make HB 790 a special order for Wednesday, May 25 at 3:01 p.m.

Division vote: 15 senators voted yea. 2 senators voted nay.

Adopted.

HB 720, increasing the penalty for operating an off highway recreational vehicle on a railroad right-of-way, airport run-

ways and cemeteries. Ought to pass. Senator Healy for the committee.

Sen. HEALY: Our committee was in complete endorsement of this particular bill because of the many hazards that could result from people riding on these railroads rights-of-way, riding in airport runways and so forth where planes are coming in. One particular phase of this bill concerns cemeteries. There seem to be quite a few motorcycles going through cemeteries especially at night and finding those cemeteries good places for vandalism and parking and for drinking and so forth. I know in my particular city there has been quite a bit of damage done where monuments have been tossed over and so forth. Usually when the culprits are found they are usually traced back to motorcycle gangs or car parties and so forth. So we feel this is a good bill.

Adopted. Ordered to third reading.

HB 659, requiring a minimum of 2 years residency before applying for free hunting or fishing license, or both. Ought to pass with amendment. Senator Healy for the committee.

Sen. HEALY: The fish and game committee highly endorsed this proposal. It is only changing in making it a requirement so that people coming into New Hampshire, senior citizens others, it is necessary for them to have at least a two year residency here before they be given all the credits and chargeable phases which are necessary and important to the people of the state of New Hampshire who have lived here for some time. We feel this is a good measure and we highly endorse it.

Senator Preston moved to lay HB 659 on the table.
Adopted.

HB 667, regulating recreational campgrounds. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill would require campgrounds to be inspected for health conditions at least once each year; require a license and a fee of \$15.00 as a means of better sanitary

control and so forth throughout the State and establishes a board of campgrounds.

Adopted. Ordered to third reading.

HB 445, relative to the penalty of a non-resident salt water fishing without a license. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This adds a penalty to the existing law regarding non-residents who wish to take salt water fish by netting, dragging or trawling off our seacoast. This had occurred in the past and it was depleting some the species of fish, it now incorporates a penalty, a misdemeanor, or natural person or felony if other than a person.

Adopted. Ordered to third reading.

HB 303, relative to the conversion of certain class VI highways to footpaths or trails. Interim Study by Transportation committee. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President what this bill does is give towns who all have roads subject to gates and bars, the right to designate those gates and bars by action of the selectmen or any designee which could be the conservation commission. The thought behind the bill is that these roads would be made into a series of trails for snow machines perhaps, the bill was opposed by other groups including the plain people because once a road is designated to a certain use all the others lose the use of it as a gates and bar is now, anyone can use it. You can go up on horseback, on a motorcycle, on skis, anyway you want to. If such a road was designated to be a snowmobile road, you could no longer walk up, you couldn't go up in anything except a snow machine. It takes away rights rather than add them though the idea is good. The idea is to make a linked up series of trails for snow machines but it can't be done in one jump like this certainly and for that reason the committee voted it to a study committee.

Sen. BRADLEY: Isn't the only thing that this bill does is to give a town the right to designate something as a trail or footpath?

Sen. POULSEN: Yes.

Sen. BRADLEY: So it would not give anyone the right to designate it only for a snow machine.

Sen. POULSEN: It would give them the right to designate it any way they wanted to Senator. They can designate it for use. They can designate it for a footpath and as I read it that would eliminate me and my motorcycle or me and my horse.

Sen. BRADLEY: Isn't the bill only limited to giving towns the power to limiting the use of the trails and footpaths?

Sen. POULSEN: Exactly, it gives them the right to take away my rights. Right now I have the right to drive up in my jeep. I would lose that right and so would you.

Sen. BRADLEY: But this would only be done if the town voted to do it.

Sen. POULSEN: Exactly.

Sen. BRADLEY: But it wouldn't be, as I understand it, the town couldn't vote to limit it only to vehicles, so they couldn't vote to limit it only to horses. So the only thing we have given them the right to is limit it to trails and footpaths.

Sen. POULSEN: That in itself limits it. There are many means for going over roads, on foot, on horseback, on motorcycle or by car etc. All of those except one, you would lose. Right now you have the privilege in the state of New Hampshire of going up every class VI highway there is by any method, you cannot stop me legally, I can go up in my jeep or any machine I want to. If you pass this then I would be at the mercy of Hanover's conservation commission perhaps or some other group. Whoever the selectmen designate could limit how I could get there.

Sen. BRADLEY: I understand that this applies only to those class VI highways meaning those highways that the town is not now maintaining.

Sen. POULSEN: That's right, we call them gates and bars.

Sen. BRADLEY: I rise in opposition to the motion. With all due respect to the Senator who knows more about back roads than I do, but this bill does indeed have a lot of interest in my area. In fact I think it is probably in large part the result of a proposal made by our town council when there was a wish on the part of some people to limit use on certain back roads in Hanover that are now not being used at all, not being maintained, to set these aside for a hiking kind of use and to exclude snowmobiling and off-road vehicles, trail bikes and the like. And it seems to me to be perfectly reasonable and the town council found that you couldn't do that. As Senator

Poulsen says under existing law if it is a highway anybody can use it with anything. Now it seems to me to be very reasonable to give to a locality the right to impose this kind of limited use at least on those highways which are now not being maintained and where they are really, almost by definition, there is no need for anyone to be using vehicles on them.

Sen. BOSSIE: Senator Bradley, would you tell the members of the Senate what the legal significance of gates and bars is under the present law, it is all very confusing, and what this will do if it passes.

Sen. BRADLEY: As I understand the status, there are at least two different ways, several ways in which a road can get to be a class VI road. One of the ways is that the town hasn't maintained it for five years, some specified number of years they just don't maintain it. It becomes a class VI highway and no one objects and thereby there is no obligation on the part of the town to maintain it. The town can vote to discontinue a road in basically two different ways. One is a straight discontinuance, the road is gone and it reverts. But if you discontinue it subject to gates and bars it would become a class VI highway, that is, a road that the town is not obligated to maintain and a highway on which one using it would use it at it's own risk and there may be some other special rules relating to keeping up the gates and bars.

Sen. POULSEN: Do you agree that the vote to discontinue a road keeps the road in the possession of the town and the vote to eliminate ownership of the road would be a vote of abandonment in which case the road reverts to the abutters halfway from each side but yet does not lock out someone who is in between.

Sen. BRADLEY: Your terminology may be more accurate than mine but there are ways to do away with the road so there is no road left or there is a discontinuance subject to gates and bars which would leave the road there, would give abutters a right of way subject to their own, use it at their own risk and it is still a highway, that is it can be used by the public.

Sen. POULSEN: And Senator you understand that we are only talking about the roads here that are now town property and that while they are town property I as a citizen of New Hampshire have a right to use those roads. And what this bill does or can do is take away part of my use of those. I can still use them perhaps on snowshoes but I couldn't use them on

my pogo stick if that is how the commissioner of conservation voted.

Sen. BRADLEY: I don't understand this to be done by the conservation committee.

Sen. POULSEN: Yes, that was in the testimony.

Sen. BRADLEY: I understand that it would be typically the conservation commission that might be the advocates of doing this but I understood this would only be done by the town itself. I don't believe this gives the conservation commission power to do anything except recommend action.

Sen. POULSEN: The testimony was that it was a selectman function, that they could designate it to any group they wished.

Sen. BRADLEY: I wouldn't agree with that but they may have said it.

Sen. JACOBSON: Senator Poulsen, are you certain about what you said with regards to discontinue highways?

Sen. POULSEN: There is a distinction between abandonment and discontinue. To discontinue a road subject to gates and bars and the town still owns it. The public has the right to it except they do have the inconvenience of having to unwind a gate or bar the landowners put across.

Sen. JACOBSON: But Senator, RSA 238:1 which is the power, there is no statute to abandon. It is the power to discontinue by vote of the town. And at that moment it no longer exists.

Sen. POULSEN: That is right. We use the word abandonment and maybe it is wrong but it is a vote of the town to definitely abandon all ownership.

Sen. JACOBSON: That's the vote to discontinue.

Sen. POULSEN: That can also mean to discontinue subject to gates and bars.

Sen. JACOBSON: I think there is some confusion. The power to discontinue as far as I know in the statute is the power in effect as we used to say at the old town meetings, throws up the road and it reverts back. Then there is a second statute which is the 238:2 which is power to discontinue a class IV, V or VI highway subject to gates and bars. That simply means that it no longer is maintained by the town. But if anybody wants to drive over at their own risk or walk over

on their own risk they may. Those are the two distinctions that I know of.

Sen. LAMONTAGNE: Mr. President, members of the Senate, this is one of the reasons the committee sent this matter for a study. Even if anyone wanted to use these class VI highways for horses they couldn't. And that is why we felt that the best thing to do was to send it to study and let us find out if the town people are going to accept this because this makes quite a change.

Adopted.

(Senator Bradley and Hancock recorded in opposition.)

HB 625, relative to motorboat noise level detectors. Ought to pass. Senator Gardner for the committee.

Sen. GARDNER: Mr. President, at the present time the Department of Safety Services uses a type I meter to detect noise standards. This bill would allow them to use type II. Now it came out at the committee that type I is a larger detector and costs more. The type II is much smaller and will serve the purpose that is necessary for their Department and it costs much less. We recommend that we use the type II as indicated in the bill.

Adopted. Ordered to third reading.

HB 287, relative to defining limited access highways in regulating OHRVs. Inexpedient to legislate. Senator Poulsen for the committee.

Sen. POULSEN: This bill in an attempt to clear up the places that snowmachines can cross the roads, it delineates the state highways of New Hampshire which are definitely non-crossable as limited access highways. Well actually there are many other limited access highways and there is a good system of crossing them. The thing is well written in the law and there is a very well-functioning committee now that is headed by Paul Dougherty that handles all applications to cross limited access highways. As the law is now, there is no such thing as a possibility of crossing one of the interstates. That is taboo-strictly. But other limited access highways, there are many of them in the state and some of them limited

access for only a portion of their length. In those areas you cannot cross without express approval through this well-functioning committee headed by Paul Dougherty who has a hearing and discovers a place that is safe to cross and puts up signs and so on. By passing this bill we would have confused the law instead of helping it.

Adopted.

HB 695, naming the Robert H. Whitaker highway. Ought to pass. Senator Healy for the committee.

Sen. HEALY: I am not taking a whack at the judges I would say this is my finest hour. Robert Whitaker over a long period of time, had been director of the public works program in New Hampshire. It is Robert Whitaker that made New Hampshire one of I think, in many ways, at least he produced a leadership that made New Hampshire one of the greatest of all states when it comes to highways. Our highways and our network of highways is great, and it is growing greater every day. And even the greatest of all, I-93, which is being under construction right now was started under the guidance and direction of Robert Whitaker. Robert Whitaker was not only a man of great architectural character and so forth, he was also a great naval officer which I am very proud to say. Robert Whitaker served as captain in the Navy during World War II and he served for a long time afterwards in the naval reserve program and he was a man whom I would say is a man of character and there is nothing greater that you can say about a person than to say he has a good character. In my book Robert Whitaker deserves the commendation he is receiving. And I hope everybody goes along and has the same feeling that I do about this naming of the highway after Captain Whitaker.

Sen. LAMONTAGNE: Mr. President, I rise in support of naming the highway after Robert Whitaker.

Adopted. Ordered to third reading.

HB 11, to provide for the conditional repeal of the requirement for wearing protective headgear on motorcycles. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: Mr. President, whoever brings this bill out for the committee should be really entitled the Senator Lamontagne bill because of the work that he has done over the last four years enacting legislation to take the mandatory helmets bill out. Testimony in committee was that everybody was in favor of it. Experts testified and we are just setting our standards with the federal guidelines which is already taken off the mandatory requirement to wear headgear. The only thing different on the senate bill and the house bill is 18 years of age that is a limitation or some federal funds will be taken away if we reduced it. The recommendation of the committee was ought to pass and I hope the Senate supports the committee report.

Sen. BOSSIE: Mr. President I rise in support of the committee report and I thank the committee in their diligence in regards to this bill. I would like to say however, that I am very disappointed in the actions of the house and most particularly the House Transportation Committee and Representative Jim Murray who had a bill sponsored here in the Senate and sponsored by the acting president and myself which they easily could have amended. Rather than do that and being delaying, dilatory, they killed our bill and they passed this thing, which is fine. But what it is is this: The motorcycle season of course is during the warmer weather and the effective date of this bill will be 60 days after passage. I do not own a motorcycle but I just think it is unfair. I think it is unfair of that particular committee and Mr. Murray particularly, to delay this thing so that it will not have as great an effect on those motorcyclists who do favor as otherwise would happen. I would encourage you to support this bill, I have no problems with it otherwise.

Sen. ROCK: Senator do you think that this could be corrected by an amendment even though we have it before us on the floor to change dates would you favor something like that?

Sen. BOSSIE: Senator I would but frankly I think if we are going to do it it is fine with me, he or she that does it with us has to be very mindful of the dilatory minds on the other side. This may give them just what they need to kill it. I would just as soon give it to the governor; I don't have much faith in that committee anymore. I have been after them and every time I saw Jim Murray I would say where is our bill and he would give me some story—oh we have it in exec. Well over there they have this silly little rule that they have to report everything out very quickly between legislative days and all that

stuff. This is the only bill that I could find in his committee that never made that rule, he always asked for an extension and they got it. So games children play, they are playing it with this bill for some reason so I'll accede to whatever you would like.

Sen. GARDNER: I think that if we should send this back to the house it may be killed. The way the house has been acting lately I think we had better accept half a loaf than having half a chance to amend it.

Adopted. Ordered to third reading.

HB 648, clarifying certain penalty provisions in the uniform motor vehicle certificate of title and Anti-Theft Act (RSA 269-A). Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: This bill was requested by the office of the attorney general clarifying certain penalty provisions in the uniform motor vehicle certificate of title and any theft ACT RSA 269-A. Under the present law the following conduct is a criminal offense relative to applying for a certificate of title. a) using a false name or address b) making a material false statement c) failing to disclose a security interest or d) concealing a material fact. This bill applies to the above prohibited conduct to any written proof or statement made in connection with the application for certificate of title.

Adopted. Ordered to third reading.

Senator Preston moved to take HB 659 from the table.
Adopted.

HB 659, requiring a minimum of 2 years residency before applying for free hunting or fishing license, or both.

Question of the committee amendment.

Amendment to HB 659

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

requiring a minimum of one year residency before applying for free hunting or fishing license, or both.

Amend section 1 of the bill by striking out same and inserting in place thereof the following:

1 Residency of One Year Required for Free License Eligibility. Amend RSA 214 by inserting after section 7-a the following new section:

214:7-b Minimum Residency Required. Any person who is otherwise qualified for a resident hunting or fishing license or both, issued without charge pursuant to the provisions of title XVIII, shall furnish proof that he has resided within the state for at least one year immediately preceding his application for said license and has not during that time claimed a residence in any other state. Any person who willfully makes a false statement relative to his residency in applying for said license shall be guilty of a misdemeanor.

Sen. HEALY: We went through this once before and we didn't have the amendment. We did know the reference to the time element and actually the requirement is a one year residency.

Sen. BERGERON: Senator it is not clear to my mind what the committee is getting at, changing it from 2 to 1 year. Just tell us why the change.

Sen. HEALY: The original bill came through with a requirement of a minimum of two years residency and after evaluation and thinking about it, the committee decided that perhaps somebody living in the state of New Hampshire one year, being an elderly citizen, perhaps would qualify then for these privileges.

Amendment adopted. Ordered to third reading.

HB 762, prohibiting the towing of certain vehicles. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: This bill prohibits towing by motor vehicle or tractor of any more than one motor vehicle, tractor trailer or semi-trailer upon any highway of this state. The reason why the state police are asking for this bill to be passed

is because there are some individuals with a pickup truck truck towing two trailers. One trailer would have the brakes and then the second trailer would not have any brakes. And this is the reason why the state police has asked to have this bill introduced so that it would restrict these people that are towing trailers that have no brakes on them.

Sen. ROCK: Senator is there anything in there that says that the weight of the trailer would be 80,000 lbs. or less?

Sen. LAMONTAGNE: Senator there is no 80,000 lbs. in weight in this bill.

Sen. ROCK: Doesn't say anything about the width of the trucks?

Sen. LAMONTAGNE: It doesn't say anything about width of trucks but there will be a bill on widths on buses a little later.

Adopted. Ordered to third reading.

HB 349, eliminating an obsolete term in the statutes regarding motor vehicle laws. Ought to pass. Senator Fennelly for the committee.

Senator Fennelly moved to recommit HB 349 to the committee on Transportation.

Adopted.

HB 465, redefining the term "emergency vehicles" in the motor vehicle laws. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: This bill is in reference to emergency vehicle.

Adopted. Ordered to third reading.

HB 718, relative to the permitted width of buses on state highways. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: Under the present law the subject of certain exempts for no motor vehicle width exceeding 96

inches. In other words, all these buses that are operating throughout the state of New Hampshire are 102 inches. What this bill does is to allow the buses to travel through New Hampshire at a width of 102 inches.

Sen. SMITH: On trucks, what is the maximum width of trucks?

Sen. LAMONTAGNE: 96 inches with the exception of the low pressure tires, it is 102.

Sen. SMITH: What does it mean if you have buses that are wider than trucks?

Sen. LAMONTAGNE: The buses are wider than trucks.

Sen. SMITH: How long have we been having 102 inch width buses on our highways.

Sen. LAMONTAGNE: Ever since the manufacturers started to manufacture these big buses.

Sen. SMITH: How long ago was that Senator?

Sen. LAMONTAGNE: I would say 15 years.

Sen. SMITH: Now it says also less exclusive of safety devices, now what does that mean?

Sen. LAMONTAGNE: That means the mirrors that are sticking out. The mirrors go 103, 104.

Sen. SMITH: More inches?

Sen. LAMONTAGNE: Yes.

Sen. SMITH: Now Senator I have seen some pretty wide mirrors and if they extend beyond the width of the bus it would put it out another 6 to 8 inches wouldn't it?

Sen. LAMONTAGNE: No it would be no more than possibly 2 inches the most on each side.

Sen. SMITH: So now you have 106 inches.

Sen. LAMONTAGNE: No I am talking about 104, possibly an inch on each side which makes 104 inches.

Sen. SMITH: What other kind of safety devices might be considered under this besides mirrors, are there any?

Sen. LAMONTAGNE: The only thing that extends outside a bus is a mirror which is a safety device. Even trucks, the trucks that have the same width as far as the safety device, no change at all. Some of those mirrors are the same they are using on Mack trucks, white trucks and other types of heavy trucks.

Sen. SMITH: Senator do you think with increasing this width that when I am going up Interstate 93 up north, do you think I am going to be driving with confidence and safety on

the highways when these buses with excessive width go zooming by me?

Sen. LAMONTAGNE: Senator you have been doing it for the last 15 years.

Sen. SMITH: I haven't been passing them they have been passing me Senator.

Sen. LAMONTAGNE: Still they have the same width.

Sen. BRADLEY: Senator did I understand you to say that the buses under this law will be wider, the maximum permitted width for buses under this law, will be wider than the maximum permissible width of trucks? Is that right?

Sen. LAMONTAGNE: It is not going to make any changes at all. You are just going to legalize something that has been going on for 15 years or more.

Sen. BRADLEY: I understand that Senator but can buses be wider than trucks?

Sen. LAMONTAGNE: The buses are wider than trucks.

Sen. BRADLEY: Senator, we heard earlier today about the camels nose and other days about the whipsaw effect in the retirement systems, isn't this either the camel getting his nose out of the tent or some kind of a whipsaw that we are going to have a bill next session asking for the trucks to be made the same as buses because it would be unfair not to have them the same?

Sen. LAMONTAGNE: Senator you probably have noticed that I haven't introduced any more width to the trucks. I personally feel that the trucks can get by with the low pressure tires so I haven't been bothering the Senate or the members of the House. I personally feel that under the law we are well protected. Therefore there is no need of asking for something we don't need. Right now under the low pressure law we have 102 inches for the trucks.

Sen. SMITH: Senator you indicated that these buses had been on our highways for the last 15 years at the width of 102 inches. Now my question is, if we pass this bill will the buses go to 106 inches or 108 inches so they will still be illegal 15 years down the line, we will have to have another bill making them even wider?

Sen. LAMONTAGNE: Senator I cannot predict what the future might be but the thing is right now they are just trying to legalize what has already been going on. At the same time Senator, there is one thing you have to keep in mind, that this 102 inches for buses is a safety measure.

Sen. SMITH: Could you tell me why this is a safety measure to have wider buses?

Sen. LAMONTAGNE: Because the buses are a lot wider and therefore with the wind, it and makes it top heavy and harder to control. At the same time a lot of these buses which are 102 inches have been proven to be a safety measure and having less inches. . .

Sen. TROWBRIDGE: If everybody does it now and we have been dealing with these buses for the last fifteen years why do we need this bill?

Sen. LAMONTAGNE: I suppose it is just like everything else. Everybody likes to operate legally.

Sen. TROWBRIDGE: It really is illegal now for the Trailway buses and those kinds of things to go through the state?

Sen. LAMONTAGNE: Yes.

Sen. TROWBRIDGE: Do they get arrested?

Sen. LAMONTAGNE: No.

Adopted. Ordered to third reading.

HB 740, relative to the use of emergency lights. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: This bill gives the right to use an emergency light to ambulance drivers. This same right is given to firemen, and people who have to drive from their homes to the fire station. These are ambulance people that have to drive from their homes to where the ambulance is kept in town. The committee questioned whether it would be abused, cowboy business with it and they assured us that the licensing arrangement for ambulance drivers is so strict that they would be the best drivers and there would be little indication to do that.

Adopted. Ordered to third reading.

HB 856, relative to the inspection of used motor vehicles offered for sale by retail dealers. Ought to pass. Senator Lamontagne for the committee.

Sen. LAMONTAGNE: This is a very good bill. What this bill does is, any dealer who is selling a used motor vehicle and

it does not pass inspection and the car is unsafe then the garage before they sell this car, have to take the inspection sticker off. At the same time they have to put on the left window a 12-inch square notice that this car did not pass the inspection. At the same time you have to notify the motor vehicle department that this car did not pass inspection. Any dealer failing to comply with this provision shall lose his inspection station for one year.

Sen. ROCK: Was there any opposition to this bill at the hearing.

Sen. LAMONTAGNE: There was no opposition.

Adopted. Ordered to third reading.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

INTRODUCTION OF HOUSE BILL First and Second Reading and Referral

HB 616, increasing certain fees charged by state agencies.
To Ways and Means.

ANNOUNCEMENTS

The president announced the resignation of Willard Gowan as doorkeeper.

The Senate President appointed Charles Mowry as acting Senate Doorkeeper for the remainder of the session.

Senator Bradley spoke under rule No. 44.

Senator Rock spoke under rule No. 44.

Senator Jacobson spoke under the rule No. 44.

Senator Healy spoke under rule No. 44.

Senator Preston moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, May 24 at 3:00 p.m.

Adopted.

Late Session
Third Reading and Final Passage

HB 525, authorizing a transfer of funds between two projects in the 1975 capital budget.

HB 795, permitting a county to borrow money in anticipation of federal or state aid or both.

HB 653, imposing a deadline for the adoption of a county budget and requiring the signature of the chairman and the clerk of the convention for filing the adopted budget.

HB 198, giving village districts authority to maintain ambulance service.

HB 781, to require notice of application for, or modification of, general assistance to be given to the municipality of settlement.

HB 681, relative to the disposition of municipal records.

HB 299, to provide New Hampshire home for the elderly classified employees a differential pay increase.

HB 305, reclassifying certain positions at Laconia state school.

HB 623, relative to reporting of collateral resources by a welfare recipient and persons liable for support of a dependent child or of a welfare recipient.

HB 720, increasing the penalty for operating an off highway recreational vehicle on a railroad right-of-way, airport runways and cemeteries.

HB 667, regulating recreational campgrounds.

HB 445, relative to the penalty of a non-resident salt water fishing without a license.

HB 625, relative to motorboat noise level detectors.

HB 695, naming the Robert H. Whitaker highway.

HB 11, to provide for the conditional repeal of the requirement for wearing protective headgear on motorcycles.

HB 648, clarifying certain penalty provisions in the uniform motor vehicle certificate of title and Anti-Theft Act (RSA 269-A).

HB 659, an act requiring a minimum of one year residency before applying for free hunting or fishing license, or both.

HB 762, prohibiting the towing of certain vehicles.

HB 465, redefining the term "emergency vehicles" in the motor vehicle laws.

HB 718, relative to the permitted width of buses on state highways.

HB 740, relative to the use of emergency lights.

HB 856, relative to the inspection of used motor vehicles offered for sale by retail dealers.

Adopted.

Senator Healy moved to adjourn at 4:10 p.m.

Adopted.

Tuesday, May 24

The Senate met at 3:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Direct us we pray thee, Lord, in all our doings for without thee our accomplishments are not very great, indeed.

We need to be able to feel thy hand guiding us as we oftentimes come to a fork in the road and do not know which decision to make.

May we always be ready to accept thy help and perform in a manner equal with the same.

Save us Lord, we humbly beseech thee.

Amen

Senator Bergeron led the Pledge of Allegiance.

ENROLLED BILLS REPORT

HB 91, relative to assessing a charge for checks returned to all state agencies.

HB 406, authorizing license and permit for restaurants in Landaff.

HB 495, relative to a charge for checks returned to a city or town as uncollectible.

HB 713, amending the title of RSA 126.

SB 65, relative to requiring certain information to be included in correspondence from state agencies.

HB 288, relative to emergency medical technicians.

HB 68, relating to administrative functions of the fish and

game department in declaring the opening and closing of seasons relative to fur-bearing animals.

SB 2, permitting optometrists to advertise prices for glasses and contact lenses.

SB 25, relative to sweepstakes commission funds.

SB 73, permitting members of the New Hampshire Fair Association to hold on-sale permits.

HB 98, relative to an agency's readoption of edited rules and relative to notice requirements in the rule adoption procedure.

HB 304, providing for the establishment of loan fund revolving account which meet certain federal requirements.

HB 324, relative to the taking of bobcat and fisher.

HB 451, relative to the authority of the commissioner to revenue administration to collect the business profits tax.

HB 647, repealing the penalty for neglecting children.

HB 675, relative to the definition of "minor" in the RSA chapter concerning exposing a minor to harmful materials.

HB 761, relative to the destruction of certain papers in the department of labor.

HB 783, requiring the labor commissioner to issue a decision in a wage claim hearing within 30 days of the hearing.

HB 868, relative to bilingual education.

HB 1011, relative to the approval of the Dover school district budget.

Sen. Lamontagne for the committee.

Senator Poulsen served notice of reconsideration on HB 856.

COMMITTEE REPORTS

HB 714, amending article 8 of the uniform commercial code relative to the duty of an issuer to inquire into adverse claims. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, all this bill does is it treats the trust department of a bank as an individual when transferring stock. It will cut down the transfer time and the paperwork down to 7 days instead of the three weeks and the consumer will have use of their money faster.

Adopted. Ordered to third reading.

VACATE

Senator Monier moved to vacate HB 769 from the special committee on Elections to Cities Legislation.

Adopted.

VACATE

Sen. Monier moved to vacate HB 809 from the committee on Executive Departments to the committee on Transportation.

Adopted.

SUSPENSION OF RULES

Senator Rock moved to suspend the rules of the Senate so far as to allow the consideration of the special orders listed in the calendar for May 24 at 3:01, 3:02, 3:03 at the present time.

Sen. ROCK: Mr. President, members of the Senate, most of the bills on the Banks, Public Institutions, Judiciary, seem to be somewhat non-controversial although important but if we could do the special orders now those senators that had other matters to attend to would be able to feel free to do whatever they had to do. I have discussed it with some of the Senators and they seem to have no objection to moving to the special orders first and then taking the other issues. And that was the purpose of the motion.

Adopted.

Special Order 3:01

HB 593, permitting a licensee or a holder of an "on sale" permit to sell at another location under certain conditions.

Question of ought to pass.

Sen. BROWN: This bill refers to people who hold an on-sale license and this bill allows them to for one day get a special license, the cost of \$25.00 for spirits, \$25.00 for beer and the site has to be approved by the fire department, the police department, the board of health and the liquor commis-

sion. When we had the debate on the floor the other day there were a great many of us in here that contradicted, we all knew the liquor laws. It finally came to the result that we didn't know the full extent of them in relation to this bill. So yesterday morning I went down to the enforcement department of the liquor commission and talked with Mr. Tassy. As you know it was stated here by a couple of the senators, that an on-sale permit license would allow them to go to a club or have a picnic and they need to sell liquor and they could do that. That is only for clubs, fraternal organizations and they are allowed to do that three times a year. The reason for it being that this club wanted to hold a picnic somewhere, provided there was food, they could also sell the liquor. Now this bill only applies to restaurateurs, people who own restaurants who have an on-sale license and if he wants to contract with somebody to hold and serve food and sell liquor at a building somewhere other than on his premises approved by these different departments as I stated would allow him to do this at the cost of the fee of \$25.00 as I said for each.

Sen. BERGERON: Senator is a caterer eligible for a class A liquor license?

Sen. BROWN: Only if he holds an on-sale liquor license. If he presently holds an on-sale liquor license then he would be eligible. If he doesn't hold the on-sale liquor license, no, it doesn't apply to him.

Sen. BERGERON: Can a caterer who now does not have any kind of a liquor license, can he apply and now be granted a class A liquor license?

Sen. BROWN: That I can't answer. That is up to the liquor commission. This has nothing to do with that.

Sen. BRADLEY: Is there any limit on these kinds of things as to how many, you mentioned the club doing it three times a year. This guy can do it every day.

Sen. BROWN: Provided he meets the requirements of the police department, the fire department, the public health officer of the town, and the rules and regulations of the liquor commission. I believe within their rules they can be the judge of this.

Sen. LAMONTAGNE: I don't want to confuse the issue but isn't it so, that you have got to have a license in order to get the special permit?

Sen. BROWN: You have to be the present holder of an on-sale license otherwise you cannot get this permit.

Sen. LAMONTAGNE: If a caterer wanted to have a special license and did not have a license then he could not get a special permit?

Sen. BROWN: That is correct.

Sen. ROCK: Senator Brown, it is possible under this bill for caterer x to get 365 of these licenses, one for every day of the year, is it not?

Sen. BROWN: Not unless—only if he meets these requirements and the liquor commission accepts it.

Sen. ROCK: If he meets the requirements and the liquor commission approves it he can get 365 of these licenses.

Sen. BROWN: He also has to be the present holder of an on-sale license plus the other things that I mentioned.

Sen. ROCK: If he holds an on-sale license and the other things that you mentioned, and he meets all the requirements, isn't it true Senator that you can get 365 of these licenses?

Sen. BROWN: Yes, if the liquor commission desires to give it to him.

Sen. ROCK: If the liquor commission so desires to give it to him Senator, can't he get 365 licenses a year?

Sen. BROWN: I suppose it is possible.

Sen. ROCK: Senator do you see any disadvantage to the person who has in the community built the hall, pays the taxes, supports the community and does all those things having now to buck somebody who can come in and pitch a tent and compete with him at a much lower cost because he doesn't have any of the other expenses. He has the license floating around the state, 365 days a year.

Sen. BROWN: I don't suppose anything is impossible but I think that is very, very unlikely senator. I don't believe for one second in my opinion, that the liquor commission would ever allow such a thing.

Sen. ROCK: But is it not possible?

Sen. BROWN: I agreed with you before.

Division vote: 9 senators voted yea. 12 senators voted nay.
Motion failed.

Senator Sanborn moved that HB 593 be referred to Interim Study by the Ways and Means Committee.

Adopted.

Special Order 3:02

HB 784, relative to the payment of liquidated damages by an employer for failure to pay back wages.

Question of inexpedient to legislate.

Sen. DOWNING: Senator, I had requested that this be made a special order of business and I talked to the chairman, the senator making the report on it, and I talked to the sponsor of the bill and I was supposed to get some additional information from the commission of labor, it hasn't been forthcoming and I guess I would just be inclined to go along with the committee report at this point.

Adopted.

Special Order 3:03

HB 836, relative to the taxation of residence in industrial or commercial zone. Question of "ought to pass".

Sen. MONIER: I would like to urge the Senate to take that position because the committee came out on that unanimously. I would like to remind them that what this bill does. At the present time in many of the towns we have residential property which is surrounded by commercial property upon rezoning and under the current laws they are being taxed on a commercial or an industrial base tax and what they are doing is forcing the people to sell their houses. This bill came into our committee and was heard by the committee. The testimony was all for it from cities and towns so it allows any residential area that is in it or plat, if I may use my own term, to remain that way and pay residential taxes until such time as the land use itself is changed. I think that this bill is something we shouldn't just casually ignore. If I remember correctly somebody asked to put it in special order of business to look into it. I cannot remember who it was but if he has any questions at this time I will be glad to answer them.

Sen. BROWN: Supposing I have a piece of property in an industrial zone, a house that I can live in but I sell it to you as a residence, does that mean it changes then?

Sen. MONIER: No. Maybe I said land use but I meant actual use change. The bill if I remember correctly, and as I

said I do not have it in front of me—does someone have it—you do? Thank you. It says that it will stay as residential until such time as the members of that family either by heir or etc. leave it and it then becomes a different change use. Meaning that it has to move from residential to some other kind of use before that taxation is changed. A resident which is currently appraised pursuant to that, at the time of the sale or at the time the owner ceases to use it as his principal place of abode shall be subject to a tax of 10% on its full and true value as whatever the surrounding area is and so forth. There is a recovery clause in it if that is what you meant.

Sen. BROWN: No, if I had a residence and sold it to you as a residence, does it become then a commercial piece of property?

Sen. MONIER: The change has to be in use not who owns it.

Sen. PRESTON: Mr. President, I would like to speak in support of this bill, particularly down in southern New Hampshire, route 1 in Seabrook. I can cite a couple of examples where a restaurant has sprung up as a result of the race track and we now have shopping centers and in between we have a house that has been in the same family for maybe 70 years and their taxes have increased maybe 5 times, an elderly woman resides there, she would like to continue her remaining years there and is being, really it is a punitive tax against her because of the industrial development that is going on.

Senator Smith moved that HB 836 be recommitted to the committee on Executive Departments.

Sen. SMITH: This bill is basically a locally sponsored piece of legislation but has broad state-wide implications and it would appear that this was the kind of legislation that was being brought about because of terrific growth in the southern part of the state where commercial areas are moving in. Houses are being found to be isolated between properties that are being used for commercial use. I am afraid with this bill, as it was amended by the House that it may create some real problems from an administrative point of view on the local level, possibly the erosion of the local tax base and I think there may be some real litigation involved in this. I am no expert on this bill and I know very little about it except from what I have heard in discussion with representatives from the

New Hampshire Municipal Association. They seem concerned about it. I think some of the reasons why they are concerned are business or industry has no particular definition and therefore could lead to litigation. The bill as amended is not limited to owner-occupied, it could be other properties. No limit as to acreage. It includes land or buildings and also there are no qualifications as to age, resources, income for either an owner or an occupant. The burden is on the owner to notify of use of change, and if he doesn't there doesn't seem to be any penalty. There is no ability for the assessing officials to reclassify at their discretion. The land use change tax is deleted and there are various other problems as I have been told with the bill. It just seems to me that maybe the committee ought to take another look at it or refer it for interim study. I am being told no from the far corner, but I think there may be some real serious problems with this bill and I would just hope that maybe the committee would give it another look and maybe I should amend my motion to recommit to the committee for another look than for interim study if they feel it is imperative that this bill be placed on the books for this session.

Sen. TROWBRIDGE: Senator Monier, one thing I don't know, is that you had explained this bill. And it would seem that you were re-enacting the current use assessment law in cities. Is it not true now that if I have a piece of property that is being used as a residence, and someone comes in and says we are now going to tax you commercially you can say no, we changed the constitution on that, the current use assessment laws are there for all property, whether it be in the wilds or in the cities. Isn't that true and therefore why this bill, maybe I am wrong.

Sen. MONIER: You have asked me that question and I can't answer you as to whether the current use law applies in the cities. I do know this, that at the present time this bill doesn't relate to current use law. It has within it a statement which is coined in two different ways, but the current use value of any affected residence shall be used in computing the total valuation equalized valuation. Then it says the administration of this new taxing mechanism will be parallel to that of or for the current use laws. I don't believe Senator Trowbridge and I may be incorrect, that you can use current use law in a case like this. It could be ten acres, but it is still a plot.

Sen. MONIER: Senator Smith, you raised several interest-

ing questions which have not been raised to the committee but wouldn't occur to me from reading the bill. To be quite frank with you, I don't see how this affects a tax base as you say it except that it doesn't allow a town to use commercial and industrial tax rates on a residential area simply because and I have to emphasize, simply because a plot of land has been residential and stayed residential while other plots around it would become commercial. Or by some variance action or by order of the board. It protects the grandfather clause but the opposite to that senator is this, if over a period of 20 years we have a person living in a home or two or three of them, and they have been there and the area around them has been rezoned and they have a right to stay there under the grandfathers clause as a residence. They are forced out of there for residential, not by their actions or by desire but by the simple taxation method of taxing in this commercial industrial area. I don't see what the problem can be with this bill on that.

Sen. SMITH: I think there seems to be some real concern that the mechanics of this bill are not tight as they are the regular current use law. Getting in and out of current use law the tax which would be due under regular current use law.

Sen. MONIER: I don't know how they can be any tighter. It states right in here that would you believe, that a residence that is currently appraised pursuant to etc., at the time of the sale that this use change tax which means that when it changes from residential to whatever else it goes to, shall be subject to a tax of 10% of its full value and true value under RSA 75:1. This use change tax shall be due and payable by the owner on April 1st, next following the change in use to the tax collector in which the property is located.

Sen. SMITH: My only answer to that is that I understand that the house has deleted that section.

Sen. MONIER: We have the amended bill in front of us.

Sen. SMITH: Maybe we could table it until we found out.

Sen. MONIER: All I can say is you recognize that we did put it under special order of business and I didn't realize it was you but I suggested at that particular time that you would have known these questions. I can't answer you.

Sen. DOWNING: I rise in opposition to the pending motion and in favor of the committee report that this bill ought to pass. Rather than creating problems this bill is actually going to relieve problems. It is helping people to stay in their homes. Now good gracious if somebody wants to sell their land, sell

their home for industrial development, fine. They'll make a buck on it and they will pay the taxes accordingly but as long as somebody wants to stay in their home we shouldn't be ready to tax them out of it. And that in essence is what happens. Now you may have a home that has been in the family a long time or you may just have bought a new home, that is your home. Now they decide to rezone and they are going to have industry come into your neighborhood or a commercial venture. Suddenly your land becomes more valuable. It is not more valuable to you, you just want to use the place as a home. And as long as you want to do that and you do that, then you shouldn't be penalized and they shouldn't be jacking up your taxes and in essence forcing you out of your house. That is happening in a lot of communities, particularly the communities along the southern border where industry and the commercial ventures are growing. Let us just try to keep people in their homes and not tax them out of it. That is all this bill does and it isn't a problem if the senator from District 3 would believe. It is alleviating the problems that exist and are growing every day.

Sen. SANBORN: I agree with the Minority Leader of the Senate in this question. My home town has just been through a court session relative to zoning within the last year and one of the stipulations of the judge was why we had to have a complete new rezoning of the town is because we never established an industrial area in the zoning. Everything was agricultural-residential. So we had to create an industrial zone for any industry that wanted to come into town. Most of that zone is residential housing and I can see that just as soon as the selectmen and one of them already knows that this bill is in existence because he sits in the house, they are going to be able to hit every house, resident in that 2-mile area on each side of 107 for a commercial tax, because it had to be done by court order. And I see this as a relief to the residents in that area. And many times if your zoning is taken into court and you haven't got a commercial area you're going to be hit the same way. So I favor this bill to help the poor residents that may be in that area.

Sen. ROCK: Mr. President I rise briefly in the heat of the day and the heat of the argument, to oppose this recommendation. To me the legislation makes sense. I think that this is the kind of responsible legislation that does show to the little persons in the cities that we care just as much about them as

we do about some of the bigger things that we vote on. I oppose this motion.

Sen. MONIER: I have to rise to correct the record. At the question of Senator Smith, to which I read this section of it and he thought it was out of the bill, I did not think it was out of the bill and I have gone to the clerk to the original bill and the way it has come over it would have cut that section is out of the bill but still it doesn't bother me any, I have to say it that way.

Sen. HANCOCK: Mr. Chairman I as a member of the committee, support the committee report but on the other hand I think there is no difficulty in recommitting it to the committee and having an opportunity of looking at it again and answer any questions that a member of the Senate might have and I would be glad to spend some time on it if the other members of the committee would.

Sen. SMITH: Mr. President, I am not against little old ladies keeping their homes, I am not a bad guy who is trying to kill a bill, I just think that this bill may have a few problems that could have some repercussions that we would look kind of foolish with later on. I would just like if this bill could be recommitted to give it one more look. I think the tax being in and then being out was not answered that well and I just think if you had one look at the mechanics of it I would appreciate it.

Motion failed.

Adopted. Ordered to third reading.

(Senator Smith recorded in opposition.)

HB 696, eliminating the requirement of advertising a lost passbook. Ought to pass with amendment. Senator Poulsen for the committee.

Amendment to HB 696

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

eliminating the requirement of advertising lost passbooks and regulating the assignment of savings deposits.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Advertising Requirement Eliminated. Amend RSA 384:33 as amended by striking out said section and inserting in place thereof the following:

384:33 Lost Passbooks and Lost Certificates. When a passbook, issued by any corporation as defined by RSA 384:1 or mutual savings bank or guaranty savings bank, has been lost, stolen or destroyed, the person in whose name it was issued, or his legal representative, may submit to the institution a signed affidavit setting for the circumstances in which the passbook was lost, stolen or destroyed and make written application to such institution for payment of the amount of the deposit represented by said book or for the issuance of a duplicate book therefor. The institution shall pay the amount due on said book or issue a duplicate book therefor unless the institution has received written notice of an adverse claim to the deposit; and upon such payment or delivery of a new book, all liability of the institution on account of the original book shall cease. The provisions of this section shall apply to certificates of deposit issued by such institutions and to the various types of certificates of co-operative banks or building and loan associations, except certificates of deposit or other certificates which are negotiable instruments; and shall also apply to passbooks and those certificates hereinabove described, issued by an institution which subsequently merged in, consolidated with, or transferred its deposit liability to, another institution.

2 Assignments of Savings Deposits. Amend RSA 384 by inserting after section 39 the following new subdivision:

Assignments of Savings Deposits

384:40 Delivery of Passbook or Certificate of Deposit. No assignment of a savings deposit which is evidenced by a passbook or certificate of deposit shall be a valid transfer of the savings deposit unless the passbook or certificate of deposit is delivered to the assignee accompanied by a written assignment or order for transfer.

384:41 Unenforceable Against Institution Prior to Service of Written Notice. No assignment of a savings deposit, however evidenced, shall be effective to charge the institution in which the deposit is maintained with a duty of payment to the

assignee prior to service by the assignee on such institution of written notice of the assignment. No such institution shall be liable to an assignee of a savings deposit maintained in that institution for any payment of such savings deposit or portion thereof or dividend or interest thereon made to the depositor prior to service on the institution by the assignee of such written notice of the assignment; except that such exemption from liability shall not apply in the case of a payment to a depositor, with respect to a savings deposit evidenced by a passbook, which is made without production of the passbook if the bylaws of the institution require production of the passbook as a condition to payment.

384:42 Application. The provisions of this subdivision shall apply to savings deposits maintained in any institution described in RSA 384:1, or in any federally-chartered institution of like nature having a place of business in this state.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. POULSEN: This bill has to do with the pledging of a pass book to make a loan. A bank or whatever lending institution it is pledged to has to notify the original bank immediately that is being pledged which is a safeguard in the third party transaction. On the bill itself the bill eliminates the need of putting an ad in the newspaper when a passbook is lost. It is done instead by an affidavit. The thing is as protected as it was the newspaper advertisement was a protective device so that a person could not fraudulently lose his passbook and borrow money from another bank. That is now covered under the terms of the amendment and this will eliminate all the newspaper chatter that we have seen over the years on lost passbooks.

Amendment adopted. Ordered to third reading.

HB 689, relative to town funds on deposit in any one bank. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President, currently the amount of collected funds that a town may deposit in any bank shall not exceed the sum of its paid up capital surplus. This allows the bank to exceed the surplus by a maximum period of twenty days. This would most likely occur during tax time when the

greatest volumes of tax monies in December would be paid into the community and deposited in the local bank.

Adopted. Ordered to third reading.

HB 472, relative to the regulation of small loans. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President what this bill does is disallow the ability to lump together loans to like a husband and then later to a wife to make up the total loanable amount for that family. Actually I don't see why it is a problem; banks are not even allowed now to ask whether anyone is married, I don't see how they could presume that a couple because they had the same name, would be the same family but this clears it any way so if a husband borrowed \$10,000 and a wife in her own name borrowed \$10,000 that would still only be a \$10,000 loan each wouldn't be a \$20,000 illegal loan to a family.

Adopted. Ordered to third reading.

HB 464, relative to the loaning authority of cooperative banks, building and loan associations and savings and loan associations. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill loosens the law a little bit for cooperative banks on multi-family houses. It allows them to go on loans of \$55,000, they can go in that neighborhood, they can go to 80. The federal savings and loans already have had this privilege for some time and there has been no objection to it. It liberalizes the law a little bit in favor of the cooperative banks.

Adopted. Ordered to third reading.

HB 408, authorizing savings banks to lend investment securities. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: Mr. President, this amendment comes from the bank commissioner and what it actually does is it came out of the first meeting that the bank advisory board had

for some six years and this is a thing near and dear to the bank commissioner's heart. It is a liberalization of the investments of banks where it would be under the bank commissioner it would only affective savings banks and state-chartered trust companies. It does give them the right to invest up to 7½% of their funds, not their total funds, but their capital funds in investments that are not on the legal list. Now many banks already have this privilege, it depends on their capitalization. The bank with which I am most familiar is already at 7½% and that is the top on the bill but it does allow other banks which are limited in a lower degree to work up to that depending on their capitalization. It is a liberalization of the amount of investments a bank can make away from the legal list. On that same score the legal list itself is adjudged to be archaic and is being revised and in fact it may not even be in the same form as it is now of legal investments. And this bill is in that direction. This amendment is in that direction.

Sen. BERGERON: Senator, having just seen this for the first time is there any change in the wording here, for example, under prudent investments, beginning with the 4th line, "but which are prudent investments for such a bank", that isn't in existing statute now is it?

Sen. POULSEN: Yes. Prudent is the key word Senator. As long as I recall it Senator, that a bank had to invest what money it did invest in stocks and bonds from a legal list and then were allowed a small percentage beyond the legal list which a prudent man would do. And that is where the prudent man comes in. Investments that a prudent man would make. In other words they cannot go out and buy Texas wildcat oil stock. That wouldn't be considered prudent.

Sen. BERGERON: Of course Senator you are aware are you not that you have the banking commissioner and you also have a different state agency that makes up the legal list.

Sen. POULSEN: No sir I am not aware of that, the banking commissioner along with two others is the party that makes up the legal list that banks use. I think the list is made up by the banking commissioner, the insurance commissioner and the secretary of the treasury.

Sen. BERGERON: Is it not a fact that it is the insurance commissioner that makes up the legal list and not the banking commissioner?

Sen. POULSEN: Not so.

Sen. BERGERON: Senator, have you heard any scuttlebut

around these halls with the new banking commissioner that any oh perhaps, dissatisfaction with the way the current statutes are in reference in particularly to the legal list?

Sen. POULSEN: I just said a moment ago in my testimony, Senator, that there is no question that the legal list is now considered to be archaic and it is in the process of being revised and action taken by the bank advisory board was that it would be presented in another form at the next called meeting of the advisory board.

Senator Poulsen moved an amendment to HB 408.

Senator Bergeron moved that HB 408 be made a special order for Tuesday, May 31, at 11:01 a.m.

Sen. BERGERON: Mr. President I have asked that this be made a special order. I have heard different things around involving two state agencies. This amendment was not a committee amendment, it is just being presented to us and I think in fairness to everyone concerned, that we should have the opportunity to review this and fully understand it. Quite truthfully, in the heat of the moment, being asked to act on this, I have some serious reservations, it may be alright but I don't know. I would like the opportunity to look it over, study it and ask for a special order for next Tuesday.

Division vote: 17 senators voted yea. 1 senator voted nay.
Adopted.

HB 613, relative to investments by savings banks in unsecured loans. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This allows loan associations and cooperative banks the privilege of providing so-called check-credit to their customers. It is a case of authorizing certain customers to overextend on their checking account up to a maximum of \$2500.00 on an unsecured loan basis. It is currently being done by state-chartered trusts in commercial banks.

Adopted. Ordered to third reading.

HB 848, requiring optometrists and ophthalmologists to report all discovered cases of bad vision to the bureau of blind

services. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the Senate, this bill is saying that if you have a problem with vision of 20/70 and are being examined by a doctor, they must report you or the child or whoever it may be to the bureau of blind services. They believe that the bureau of blind services, by having better information they can better work with the people who are involved with this and can probably get some schooling for them and line them up. It is felt in the past that some children were not reported in and went to school and had some problems over a period of years and it was many years before they realized what the real problems were. By them knowing about it they can work with the people, talk to the parents and better understand the problems the children have that are a result of poor vision and help them in the future.

Sen. BOSSIE: Senator, rather than forcing doctors to report something like this why don't we require instead that people who possess this level vision report it to the department. Wouldn't that be more logical?

Sen. McLAUGHLIN: I think that many times it is children who are having this problem at an early age and they want to catch them at it. A young child at 3, 4, 6 or 7 years of age, I don't know how you can mandate them to do it Senator. That's what they are trying to get at.

Sen. BOSSIE: How is it possible to get the end result without the foolishness of requiring them to do something. The doctor is now required to do a number of things that other people in other professions aren't required to do because of the nature of their occupation. I hold no forte for them obviously but for the fact that there is a time that individual responsibility has got to prevail over making certain segments of our society be responsible to protect others.

Sen. McLAUGHLIN: I think in the testimony that was given, it was just felt that many times a child has a problem and the parent knows about the problem but doesn't want to face up to it at that time. The doctor isn't reporting it, he is trying to work with them but the end result is that it is hurting the child moreso because they believe the bureau of the blind services can work with them and talk with the parents and get them to realize and they feel they can gain 5 or 8 years in some

of these cases, and help them out with their future rather than turning them out and letting them go through school with these serious problems all the time.

Sen. BOSSIE: Has your committee contemplated amending the bill so that it will apply only to children?

Sen. McLAUGHIN: No it has not.

Sen. BOSSIE: Would it?

Sen. McLAUGHLIN: I don't think so.

Sen. BOSSIE: In that case Senator, what is your argument with regards to adults. I guess I could be made to agree with you as regards to children but why, if an adult has been blind for a number of years and they don't want to do anything about it, even though it is protected information, why require them to be reported?

Sen. McLAUGHLIN: Sometime older people may have this problem and are a little bit embarrassed because they have this problem and don't want to face it and go and tell somebody else that they have this problem. The department of blind services testified that they had that problem, they talked it out with many people and they would be willing to assist and talk to these people and maybe help re-train them or re-educate them and so forth. People who worked with the blind that were there thought it would be a great thing if they could get these people as early in the life as they could and work it out with them.

Sen. SANBORN: Senator McLaughlin I hear you loud and clear on this going to the bureau of the blind, my question is in the case of a child with vision disability, is this reported to the department of education so they can anticipate a child who has a problem coming along in the school system under the disability?

Sen. McLAUGHLIN: The bureau of the blind services, the division of vocational rehabilitation and the division of education—that is where it goes to and they will then try to help out the child involved.

Sen. SANBORN: In the case of the elderly, somebody who might be, for instance myself, would this be reported to say the department of safety relative to my ability to drive a motor vehicle?

Sen. McLAUGHLIN: The answer is no—it is all confidential files.

Sen. SANBORN: Don't you feel that if somebody has a license and driving around that the department of safety might

have an interest in him in view of the safety of other motor vehicles on the road?

Sen. McLAUGHLIN: Probably, but it is not part of this bill.

Sen. BRADLEY: It seems to me that the questions raised here raise an important issue about notions of individual freedom and privacy that we talked about in this session. If someone wants to keep his problem private and not have his name put into the files which will go into some computer data bank, shouldn't he have that freedom to do so?

Sen. McLAUGHLIN: I don't agree with you.

Adopted. Ordered to third reading.

HB 928, relative to veterinarian licenses. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: This bill does two things: it makes a veterinarian spend twelve hours a year upgrading his training and it also recognizes foreign veterinarian graduates from licensed qualified schools, to take the tests in New Hampshire, at the present time they cannot do that. It was testified that there are people from our state in New England who leave here and go to foreign countries to study and come back here but cannot be recognized or take the tests in our state and this allows them to do same.

Sen. BOSSIE: Senator I think I should be on your committee I like your bills. They are very nice. Tell me, has your committee given any thought to allowing the veterinarian board to determine what the annual requirements are for continuing education just like the medical association, the bar association and other boards do for their own profession.

Sen. McLAUGHLIN: The answer is yes. The board is doing that.

Sen. BOSSIE: Will this bill permit the veterinary board to determine the amount and the kind of continuing education?

Sen. McLAUGHLIN: It spells out 12 hours.

Adopted. Ordered to third reading.

HB 129, exempting certain persons from prosecution relative to exposing minors to harmful material or obscenity.

Ought to pass with amendment. Senator Keeney for the committee.

Sen. KEENEY: If you look at the bill that you have before you, HB 129, and compare it with the amendment as you see it on pages 21 and 22 in the calendar, you will see that they are exactly the same. The bill which came to our committee was very much amended by the House and although a number of people appeared in favor of the bill they kept pointing out things that had been cut out by the House amendment. So the judiciary committee put the amendment, i. e., the original bill, back for your consideration. The bill would exempt from the obscenity statutes anyone who acting in their official capacity, has material that could be considered harmful to minors under the present statutes. And the people exempted would be officials of municipalities or an institution or a museum and the employees thereof.

Sen. MONIER: Senator I am just curious about this as to why the judiciary would feel or any, as a matter of fact I am against the bill in its original form and its amended form. I am just curious as to why we have a double standard here because what you have got, you have school teachers, librarians, government employees etc., that are not held accountable while you and I as citizens would be held accountable. Now on what basis is a double standard justified?

Sen. KEENEY: They would be accountable still to their municipality as far as pressure to have the material removed from the school for instance, or from a library. In many instances for example, the mayor of a city is not actually responsible for what goes into the school but he could be sued without legislation such as this. This would protect those who were not directly responsible for the material that was found obscene.

Sen. MONIER: I think that disturbs me a little bit because whatever obscenity laws we have we are saying in a sense that they are not responsible for following because for some obscure reason they don't have a basis, I guess for evaluating it or something, but certainly a school teacher does, a librarian does, I don't know as I can speak for a mayor and government officials that handled those kinds of things—was there any question brought up about this being a double standard on the basis of somebody doing work?

Sen. KEENEY: No there was no question of that sort. I

think that an individual could still be found responsible but the bill would exempt those who were working in their official capacity such that perhaps they had no way of not handling the material. For instance, if a book were in a library and they simply went and got the book from the stack.

Sen. PRESTON: Senator Keeney I see what you are trying to do here. Recently we passed a bill on child pornography which was opposed by the Civil Liberties Union on the basis that these magazines that depict 8 and 10 year old girls were literature. My concern is that this might be another blanket for those that could allow such literature to exist in an institution and not be as careful in scrutinizing that type of literature that might be there that could be offensive?

Sen. KEENEY: In answer to the question, I don't recall that anyone spoke in that vein. Most of the testimony was from those involved in the state library, school boards association, school principals association, speaking for the library trustees association. This was the type of testimony that we heard and I don't recall that it was connected with the commercial establishments that you are thinking of.

Sen. PRESTON: I am referring to some letters as a result of the bill that we put in that were received from some parents. Some with and without merit you might say but that did refer to certain literature that they thought did exist in schools, that were obscene, at least to them. I think if we passed a bill like this they might not be on their toes as much about watching that type of literature coming in. I am just wondering if this would alleviate the responsibility in any way.

Sen. KEENEY: I don't see that it alleviates an individual's responsibility who might deliberately pass on those materials.

Sen. ROCK: Senator Keeney, I feel somewhat at a disadvantage here. The bill that we have before us is the bill that is amended. What do the House amendments do that we haven't been able to look at here. It is an unusual situation, we are looking at an amendment that is the bill rather than an amendment that changes something.

Sen. KEENEY: The House amendment is in journal 64, page 1193. In brief it added the phrase "until the material involved is material which has resulted in the final conviction of a person under RSA 571:B or RSA 650." It eliminated museums, institutions other than public or non-public educational institutions, state library or other public libraries, those were kept in. Other institutions were dropped out. Trustees

were dropped out, officials of a community or of a school were dropped out of the amendment. I do have a copy here if that would answer more of your question. It was severely cut is the best way to say it.

Sen. BRADLEY: Mr. President, I rise in support of the amendment. There is a good feature or two in the house amendment. There is a good feature or two in the House amendment but on the whole it was my feeling that the House easy course of action for us is to keep the bill alive and go back to the original. My personal feeling is that this bill probably won't get worked out unless there is a conference committee. More to the merits of the thing—I understand Senator Monier's question about the double standard and this is an issue that we have grappled with over the years. The problem is that no one wants to stick the librarian who hands a book to a kid that may turn out to be obscene when the librarian may have no idea at all what is in the book or in the case that Senator Foley had in her district a while back. A young man had just gone to work for a bookstore, had no idea what was in a book, I think it was on the first day of work, handed a book to what turned out to be an undercover policeman, and gets arrested for selling an obscene book. One answer which Senator Foley and I propose to this, was that you don't prosecute somebody until a book or matter has been declared obscene through an action against the book if you will and not in a criminal prosecution. Then if anyone distributes it, you prosecute them. The attorney general opposed that with all his might. But nevertheless we are left with a problem. We have taken care of it in one or two instances for example, already on the books, we exempt the motion picture operator who is showing the movie, it is part of his employment. We say that he is not the guy that ought to be arrested and charged with showing obscenity. That's really what this bill is all about. Trying to say that there are certain people who may happen to be someone who handles a piece of obscene material, passes it on but they aren't the ones that you ought to prosecute criminally. It is a tough issue but I think that I would lean on the side of accepting this bill or whatever might come out of a committee of conference rather than going to indefinite postponement.

Sen. MONIER: Senator I am not arguing with you, I understand what you are saying and I read the RSA 571:B. The question that I have is why are we exempting certain people,

why don't we write the bill to exempt everybody? I don't understand this. Now you take a librarian that you say may not know that the book is obscene. You mentioned about a person that Senator Foley knew—is that person now exempt from this? No. But we are exempting librarians and school teachers and etc. and so forth. Now I am a school teacher and I certainly know what kind of books that I am offering to my people that I am teaching. If I thought it was obscene then I wouldn't give it to them. I would meet my own responsibility. The problem that bothers me is why are we exempting anybody.

Sen. BRADLEY: It is my own personal sense of justice if you will, is that the people in these categories are not the ones that you should be going after. You may be right, there may be instances where the teacher knowing full well, the contents of a book, is passing it out among our students and letting him or her get away with it. But I suggest to you that more often than not, in the school context, and this exempts the school, its employees and officers, the principal isn't going to be seeing the book, the school board isn't going to be seeing the book, so you shouldn't be prosecuting these school officials who are only in the business of going about their school business. Now if they were selling the book, they are not going to be exempt. Or if they are somehow doing it outside the scope of their employment they are not going to be immune.

Sen. MONIER: Once again, I am not really arguing with you except that I don't agree with what you are saying because I don't think that you should exempt anybody if you are going to have it. Would you agree to this—if we start exempting people we could add to this, that would be number one, other people, and number two when you exempt someone you automatically take away from them any responsibility that they might have had in their official position to themselves to make a closer scrutiny of this kind of material.

Sen. BRADLEY: I think you do that and this is very reminiscent of a continuing argument that I had with Attorney General Souter on this same thing where he says if you don't prosecute the guy in the bookstore for selling the book, he has no responsibility to look at it and you jeopardize law enforcement and so forth. I respectfully disagree. That you don't have to prosecute the innocent, or may often be the innocent, he is just the flunky who is working there in the bookstore.

You don't have to prosecute him in order to uphold the obscenity laws. There are other alternatives.

Division vote: 9 senators voted yea. 12 senators voted nay.
Amendment failed.

Senator Monier moved to indefinitely postpone HB 129.

Sen. MONIER: I don't think that we have to continue with this debate, my problem is very simple. This bill establishes double standards as I have already said. I totally agree with what Senator Bradley is stating—I don't think the bill does a thing except protect a certain group of people. I don't like the groups that it protects because I can think of others that ought to be there and I certainly wouldn't agree that teachers ought to be involved in it or school officials because they are responsible. They are there for that purposes. They ought to know what kind of reading material they are handing out to be very frank with you. So if we want to pick on one group that certainly ought to have that kind of responsibility and ought to be held accountable, I will select that one. But quite frankly my concern with the bill is that I don't think that we ought to set double standards and I think also and it has been admitted and I agree if you start exempting certain groups then you are also saying to them that they don't exercise their responsibilities within this field. And I just don't think that is good legislation.

Sen. FOLEY: Mr. President, I object to the motion and I do so because I listened to the entire hearing. There was a young girl, a librarian from Littleton and I believe she hadn't been there for too long, she has had nothing to do with the purchase of books in the library, there are several thousand books in that library in Littleton, she hasn't got time to read them all and see what is in them all. There are a group of women who are going around and looking at libraries to see what is in there and one of the books in particular that they are looking at is the *Catcher In the Rye*. Obscenity is in the eye of the beholder. If the police chief in Littleton feels that *Catcher In the Rye* is an obscene piece of literature, he can arrest that girl because it is right in the library. It seems to me that this is just reaching out too far for people who are doing their job every day and if I were a librarian I think I would go everyday in trepidation for fear that at the end of the day somebody would find some book in the library that they feel is obscene and

they are not coming in and telling me about it they are going to the Police Chief and saying there is an obscene book in the library. These are the kinds of things that many, many librarians, friends of the library and many other people, came to the hearing and spoke about and rather than kill the bill altogether, perhaps it should be recommitted to committee and maybe we could find another amendment to put on it for people who feel that the bill is too easy; they might come in and tell us what they would like but I feel leaving this entire group of people out on a limb like we are doing and just completely killing the bill is not responsible as far as I am concerned.

Sen. SANBORN: Senator Foley, it seems to me in the earlier testimony I heard somebody make the statement that the Association of Library Trustees appeared in opposition to this bill?

Sen. FOLEY: No, they all appeared in favor of the bill.

Sen. SANBORN: Aren't the library trustees responsible for the books in the library?

Sen. FOLEY: Yes they are. There is one person who usually is the person who purchases the books and looks through but if I get a listing in the library of books, there is a description of the book beside the listing that come monthly and I don't think you can read every word. Some people are objecting to one four-letter word in a book and saying the whole book is obscene because of one word. I am not crazy about that kind of reading myself and I don't want my kids to be reading some of the things but I do feel that a librarian has to do her job. She went to school for it, most of them by now have gone to school, college for four years, they think they have a good background, they are going into a library and before the end of any day they might be picked up for having obscene books and having it on their record. That's the part that bothers me. I don't want obscene books don't get me wrong, but I don't feel that we should hurt and give somebody a criminal record just because she works somewhere in a place where there might be 100,000 volumes and she hasn't got time to sit down before she goes to work and read them all.

Sen. SANBORN: Would you believe me Senator that I have been a member of a board of trustees in a library for about 30 years now and in that length of time, one member of the board

of trustees, has reviewed every book that has come into the library?

Sen. FOLEY: I think that is great, I really do.

Sen. BOSSIE: I rise in opposition to the present motion and I rise in favor of the bill. Now I had the opportunity to sit through most of the hearings and frankly everybody that spoke was in favor of the bill and there were a lot of library people and school people from all over the state and many from some of the smaller towns. I don't think that Senator Monier alleges that this gives anyone benefits that they shouldn't have. I don't agree with that. I don't agree with pornography for minors either. The fact remains that you take a city the size of Manchester that probably has $\frac{1}{2}$ or $\frac{3}{4}$ million books and the board of trustees that is appointed by the mayor and aldermen they buy the books and the librarian is just there—you rent the book or you take the book out on loan. I think this is a very dangerous thing to set a precedent on by killing it. Do you know that there are people going around the state trying to pull the book "To Kill A Mockingbird" off the shelves as being obscene. Now if that is obscene then our senate journal is obscene. I think it is just a beautiful book. Now if we are going to play into the hands of this and to believe that certain individuals that are excluded in this bill are purveyors of pornography then we should really re-think the whole philosophy of libraries and probably just shut the whole damn bunch of them down. Now we have libraries to education the children and so one book does have a damn in it, a four-letter word, but we know that love is a four-letter word as well. We have got to think it out and I think this is a logical step and if others should be put in this exemption category, then let it be. I think it would be a proper thing at this time and I agree with Senator Foley that we should pass it. After hearing the testimony, I strongly favor the bill.

Sen. SANBORN: Senator I hear you loud and clear but I wish you would show me somewhere on this bill where anybody is responsible for this type of literature in the school, a library or anywhere else.

Sen. BOSSIE: I think if you are going to do that I think you should hold whoever is responsible for putting the book there not to the librarian who is hired to give out books. I don't think that is fair.

Sen. SANBORN: I am not arguing with that point about it but as I say, in the bill in its present form in the amendment

that came from your committee, can you identify anyplace where anybody in there is responsible?

Sen. BOSSIE: This bill only provides for the exemption. Frankly we didn't hear one word from those who would ban books in the committee. We didn't hear from anybody that was concerned with that aspect. We believe and I think the law is fairly clear now. I don't think there is any need to amend that.

Sen. SANBORN: I am still looking for the same answer. I don't seem to be getting it. It says the provisions of RSA do not apply to bona fide scientific, educational institutions, schools, libraries, museums, federal, state and local governments. You mean to tell me that way, nobody is responsible.

Sen. BOSSIE: As far as I am concerned if in a library, the board of trustees is responsible for any books and for any educational institutions it is the institutions governing board.

Sen. SANBORN: And where in this bill does it say so.

Sen. BOSSIE: This bill provides strictly for the exemptions. In every bill that comes up to this senate we don't provide for exemptions and then provide for the rule. You might look up under 571 whatever is about obscenity is there.

Sen. SANBORN: How do you define agencies, nor their employees or officers while acting in an official capacity, isn't that trustees, isn't that library school boards, isn't that all the various people that you're telling me about that are responsible?

Sen. BOSSIE: I don't think that a director on a board is an employee for purposes of this statute.

Sen. SANBORN: Isn't he an officer.

Sen. BOSSIE: He is a director and I don't know if he would be an officer like the librarian who would be an officer.

Sen. MONIER: Senator Bossie, I think that the point that Senator Sanborn is trying to drive at and I'll answer the question. I think I understand what the bill is and I think you have heard what I said on the floor. You made a statement in response to his question you said that there was a definition of obscenity on the books. Could you tell me who now is responsible for books in the library and who determines if they are obscene or not?

Sen. BOSSIE: Frankly I am not familiar with the provisions of 571. It has never been of great concern to me nor have I ever heard there be any complaints other than in this body for any nasty books in the library.

Sen. MONIER: The point is not about a complaint about nasty books, the point was in the debate that we had you heard Senator Foley say that there are people going around and saying that this book is an obscene book in the library and the librarian is arrested. Now if the librarian is arrested she has to be arrested for breaking some law. Now what law is it that makes a book obscene or not obscene?

Sen. BOSSIE: I would imagine the provisions of 571.

Sen. MONIER: Then there are provisions in the law that says certain things can be declared obscene under certain conditions.

Sen. BOSSIE: Right and there is a bill that we passed here in the senate that sets a civil standard to determine obscenity and that is a good law too.

Sen. MONIER: Why do we have a bill to exempt people from being involved with that particular form or kind of a law that is obscene.

Sen. BOSSIE: It is the amount of books that are involved and the particular positions with which these people are employed. A librarian is hired by a town or city or a school to loan books. Generally they have no control at all, as to the types of kinds or quantities of books that they buy. I just think that if you are gearing up to aim at somebody well aim at where it belongs and you figure out the law as that should be and perhaps I'll vote for it. I am concerned at this point with the exemptions.

Sen. MONIER: If I were to withdraw my motion and ask that this be recommitted to committee would the committee then concern itself with who is responsible for any obscene materials rather than exempting people?

Sen. BOSSIE: Would you be in a position to appear at the hearing and you can direct whatever legal expertise you may find in this area to bring it to our attention?

Sen. MONIER: I don't think that is an answer Senator, I asked if I were to withdraw my motion and ask that it be recommitted, would the Judiciary Committee direct their attention using this bill as a vehicle, to the idea of identifying who it is that is going to be responsible for obscene matters rather than identifying those people who are exempt from.

Sen. BOSSIE: It would be amenable to all of this. As we know next Thursday is the last day.

Sen. MONIER: I know that.

Sen. BOSSIE: I suspect Senator that there is nothing we

could do that would please you unless we put that a, b and c would be responsible if he or she violates any cause hereunder that they can be prosecuted. I am personally not interested in that but you are, you are making the point, so I welcome you to do it. Go do it. But we need someone who is aware and wants to provide us the expertise. We may be liars on occasion but the fact remains that if those who are concerned with the subject should present it to us. We don't have the time to do all this.

Sen. MONIER: With all due respect, it is not my concern with what the obscene laws are at the present time. My concern is that we have a bill in front of us that exempts people from it. My concern is at what point can we indicate that somebody is responsible for it not what it is but responsible for determining it. I think instead of having this kind of a bill we ought to have a bill in which we are determining who is responsible for the obscenity law. I am merely saying if I ask to recommit this that would be an opportunity to do it and I don't think your answer about satisfying me—you don't satisfy me. I would just like to know whether we can deal with the crux of the obscenity is not with the exemptions.

Sen. BOSSIE: Are you familiar with the sections of 571? Are you prepared to tell us who is responsible.

Sen. MONIER: No I am not. If I was on the Judiciary I might have been.

Sen. BOSSIE: Well neither am I nor am I concerned.

Sen. FENNELLY: As a member of Judiciary and sitting in on this bill, I think what Senator Monier is trying to get over is who is responsible. Well the only way we can do this would be to further amend the bill if it went back to committee, and we would probably, the solution would be to hold the people responsible who actually purchased the bill. Now what are we getting into there? It could be possibly the selectmen of towns, a board that the mayor appoints from the city of Manchester, if he might be held responsible. You are getting into a tremendous area if you are going to put that responsibility down, but that is the only area that you could go. The people who pay the money and the authority to buy the books. And that can cover everybody in this state who is in local government and I want to bring out that point.

Senator Brown moved to recommit HB 129 to the committee on the Judiciary.

Sen. BROWN: Mr. President, through the debate that we have had some period of time now on this bill, I was originally prepared to vote against the bill because of the exceptions and so forth. But due to the debate it became clear to me that some innocent people may suffer here. I have talked to the chairman of the judiciary and he has no problem with it going back and he said he would work on it, and Senator Bossie said that he would also work on it and see if he couldn't protect or somehow prevent innocent people from being arrested.

Sen. LAMONTAGNE: I rise in favor of the motion and I personally feel that there is some good that can be gotten out of this if this is recommitted back to the committee. For instance, the Senator from the 24th district, Senator Foley, her case that she mentioned, wouldn't be covered under the present bill the way it is drafted so therefore she could appear before the Judiciary committee and see if this could be straightened out. I think there is some good in this bill and I would hate to see it go to waste at this time and I think that if you recommit it back to committee I am sure that they will be coming out with something that would be a benefit and at the same time protect the innocent people.

Adopted.

HB 400, relative to the place and time of detention of arrestees. Ought to pass with amendment. Senator Bradley for the committee.

Sen. BRADLEY: The amendment is on page 22 of today's calendar. Under existing law, when a person is arrested and has not been bailed, they must be brought before a municipal or district court judge within 24 hours excepting Sundays and holidays. The original bill was just to add Saturdays to the exception so that some judges wouldn't have to work on Saturdays. Actually, many judges do work on Saturdays but the original form of the bill would mean, let me go back. Under the existing law, if someone is arrested on a Saturday night and it is a long weekend and Monday is a holiday, they wouldn't have to be brought before the judge for a so-called arraignment until Tuesday sometime. Because you wouldn't count for Sunday and the Monday holiday. This bill in its original form, say you get arrested on a Friday night, you could sit in the pokey if you couldn't raise bail until Tuesday

morning. Now we felt that that was too long a period and the people who were there in support of the bill agreed that if there was a long weekend that you ought to sit on a Saturday and you shouldn't have three days in there. What we did to take care of that, this is in the amendment, is to say in no event will you go more than 72 hours. So if you get arrested on a Saturday on a long weekend, or say Friday on a long weekend, the judge is either going to come in on Saturday or on Monday to hold the arraignment. Now this arraignment is not the trial this is just where you are entitled to be brought before a magistrate, be informed of the charges against you and have your rights explained to you and so forth. It seemed like a reasonable concession to the system.

Sen. HEALY: I have been trying to be quiet today because it is hot and I had a bad day yesterday. Senator Bradley, let us assume for example, that a prominent citizen is arrested for some reason or other. Something that may require district court activity the following Monday or even on a Saturday. Do you think it is too much to ask a judge to come in on a Saturday to hear a case?

Sen. BRADLEY: This is what I tried to explain. The judge isn't really going to hear the case this is just the so-called arraignment where in this part of our system we don't allow people to languish in jail without being brought before a magistrate, on either a question of bail or inform them of their rights or that sort of thing. Certainly if it is a long weekend, I don't have any problem with coming in on Saturdays.

Sen. HEALY: Let us assume too that the following Monday, and there are many Mondays now that are holidays. Let us assume that he is arrested on a late Friday night or so and he is staying over the night in one of the city jails or even a county jail, and this is an honorable citizen, he might have made a mistake, he might have been coming down 93 some night and gotten arrested for drunken driving. Now should the judge come in and hear the case, have the arraignment on a Saturday morning, or should he not?

Sen. BRADLEY: That is the purpose of the amendment, to make sure that on a long holiday weekend like a Monday holiday, that if somebody got arrested on Friday, the judge has either got to come in Saturday or he has to come in Monday, he has to make a choice one way or the other. Senator, as far as I am concerned and I hope the senate

doesn't care whether the man is a prominent citizen or the lowliest of citizens. The law applies to all.

Sen. HEALY: Well if the law should apply equally Senator, why doesn't it apply equally on pensions?

Sen. BRADLEY: Well I won't debate that with you Senator but I will redo my offer to co-sponsor a bill with you to establish a group III retirement for the judges where they will contribute.

Sen. HEALY: Would you consider getting together with me before this session ends so that we can solve this situation?

Sen. BRADLEY: I don't think that between you and me with have the expertise to do it. I think we need some help.

Sen. HEALY: Being rather warm, Mr. Chairman, I am going to desist from further questioning the honorable Senator.

Sen. DOWNING: Senator Bradley, the law now says that an individual has to be arraigned within 24 hours.

Sen. BRADLEY: Right, if there is no Sunday or holiday involved and it is within 24 hours, and that part of it isn't being changed.

Sen. DOWNING: So this bill is merely a convenience for the attorneys and the judges.

Sen. BRADLEY: More for the judges, I think it is safe to say, because more often than not, I would guess a person in this situation would not have his lawyer at the arraignment.

Sen. DOWNING: So at the convenience of the judge we could have a citizen locked up for as long as 72 hours before they are arraigned.

Sen. BRADLEY: That's true.

Sen. DOWNING: And the committee thought that was fair and reasonable?

Sen. BRADLEY: Well, the majority of the committee did and there was no opposition to it.

Sen. BOSSIE: I understand the significance of the bill and if you will bear with me for a moment I will tell you about it. Apparently, in the state of New Hampshire, most of the courts are not observing the law with regards to arraignments within 24 hours. To my knowledge the only one that is doing that and holding court on Saturday is the Manchester district court and there is only one judge doing that and that is Judge Capistran. Judge Capistran came before the committee and his testimony was this: you can accept it or not it makes no

difference to me. I think it is fair what he says. Usually the process is that when people are arrested, they normally, except for high crimes including murder, treason, arson and things of that nature, high felonyies, they are entitled to immediate release on bail. Every court and every municipality has at least one bail commissioner and in which the police would call in and say for a DWI case he would probably set it at \$200.00. So that is the process. 95% of the people get out of jail almost immediately or within a few hours because you are entitled as a matter of law to a speedy bail. Well what happens in the process, in Manchester particularly, a person is arrested on a Friday night, say for a burglary. So he or she does not have the bail, say it is set at \$5,000. So what the heck have they got to lose, I'm sure they want arraignment on Saturday morning because I might plead to the court that I am going to be in jail all weekend and it cost the county of Hillsborough lots of money to keep me in jail so I want to get out on personal recognizance rather than put any money up. So the court, and this is certainly no assistance to the lawyers frankly, in the eleven years that I have been practicing law, I have never been to a court on a Saturday morning, and most of the people that would be brought there certainly would be without funds. They can't even pay to have a bondsman put up 10% of the money to put up bail. So what happens in effect is the court is being used now as a bail commissioner. It is with the hope that they missed the first boat, they can't raise the money for the bail set by the bail commissioner now they are going to go to court in the hope that they can get the judge to forgive the amount or just put them on personal recognizance. And if you think about it in your own little towns, I don't have any little towns, but most of you do, most of them if you ask the local chief of police whether they are doing the law as it is now and the answer is going to be no. So the judge, and frankly he told us if he decide not to pass it, there is a way that he can do it. Under the present law, Sundays and holidays are excluded anyway. I don't think that it will be used to put people in jail and deprive them of their rights for 72 hours like you see in the movies that they do in some of the southern states. I have just never heard of that around here. Frankly, if they have access to a telephone they could at least get to a relative who could place a call to a lawyer and any lawyer could at least arrange the bail for a period of time. Now we are hearing Senator Bergeron's comments that I don't work

Saturdays. I do work Saturdays, quite frequently and Sundays too.

Sen. SAGGIOTES: Senator I tried to follow you quite closely. Did I hear you correctly in saying that if this is not passed they could do it anyway?

Sen. BOSSIE: They have to arraign within 24 hours except for Saturday and Sunday. If the judge said if there was an arrest after 8:00 p.m. on Friday night and in no instance would he have to arraign the individual till Monday morning and in the instance like the next Monday would be a holiday, then he could keep him from Friday night at 8:05 p.m. through Tuesday morning. And this is every judge and every court in this state. And that is just the way things are and this is just to make it a legal sort of thing. He brought it to our attention and if you want to act on it fine, and if you don't, fine.

Sen. SAGGIOTES: In other words are you saying that what the bill proposes, can already be done by the judge?

Sen. BOSSIE: I think it is theoretical. I think that what the court would like by presenting this bill to us is to make legal what is already happening in the state. This is happening and I think it is fair.

Sen. BERGERON: Senator just to follow up your answer to Senator Saggiotes. If someone was arrested in the city of Dover on Friday night at 8:00 p.m., are you telling me that chances are very good that that man will sit there until Tuesday morning under the present set of circumstances? Is that what you said?

Sen. BOSSIE: No. 95 to 99% of the time time that individual is released within 2 or 3 hours either on cash bail or personal recognizance or payment of \$6.00 to the bail commissioner. You are concerned with the person who is indigent and has committed a serious offense, like a sex crime.

Sen. BERGERON: Not necessarily. I am concerned with the man who might for some reason or other be caught short and not have the bail money and has to sit there from Friday night till Tuesday morning.

Sen. BOSSIE: If he were a local individual and everybody knows somebody with money. Like in your area you could call Senator Fennelly. I'll call Senator Provost. I don't work on Saturdays.

Sen. BERGERON: Just to nail this down Senator, is it possible for somebody to be arrested and sit in jail from Friday night till Tuesday morning?

Sen. BOSSIE: It would be possible and I would suggest that it has happened before in the state of New Hampshire during long holidays in little towns that wouldn't probably be too far from you.

Sen. DOWNING: If I heard you correctly, we should pass this bill to legalize present illegal activity of most of the judges in the state.

Sen. BOSSIE: I would not say it was illegal activity. I just think that the law is not being applied directly as it is written.

Sen. BRADLEY: I just want to respond to Senator Bergeron's question. Under the bill as it came to us from the House it would have been possible for someone who had been arrested on Friday night, if it were a long weekend, they wouldn't get arraigned until Tuesday morning. The purpose of the amendment being proposed by our committee was to make sure that that can't be done at least legally. In the case of the long weekend and you are arrested on Friday night, the judge has got to either come in Saturday or Sunday or Monday morning. Because otherwise you would violate the 72 hour thing. Under the present law as it exists now you could also go that same length of time. And you could conceivably with two holidays and a weekend stay longer than the 72 hours. One thing that our amendment is doing is putting an outside limit on it under all circumstances.

Sen. DOWNING: Senator did the committee consider using this bill as a vehicle to establish some penalties for judges that aren't following the present law.

Sen. BRADLEY: No we didn't and I hold no brief with those; judges who would ignore the requirement or the rest of it.

Sen. SANBORN: Senator, you know down in Hampton they have problems at times on long weekends. They pick up some of the riotous people on Friday night and put them in the cooler. But Judge Kazala is up in Old Orchard Beach, Maine on vacation or something, what do they do?

Sen. BRADLEY: Judge Kazala shouldn't go up there for his vacations number one.

Sen. SANBORN: Well he might be up to Littleton.

Sen. BRADLEY: There should be a judge available within the time limit prescribed. If a judge is going to be away for more than the 24, 48 hours or whatever it may be he ought to make sure that someone is covering it.

Amendment failed.

Senator Saggiotes moved that HB 400 be indefinitely postponed.

Sen. SAGGIOTES: Very briefly Mr. President, from the discussion that we have had here I see that this bill does absolutely nothing for the arrestee. It definitely throws the key away for 72 hours and for that reason I oppose the concept of the bill.

Senator Rock moved that HB 400 be laid on the table.
Adopted.

HB 382, relative to the jurisdiction of district courts in criminal matters. Ought to pass with amendment. Senator Keeney for the committee.

Amendment to HB 382

Amend RSA 502-A:11 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

502-A:11 Criminal Cases, District Courts. Each district court shall have the powers of a justice of the peace and quorum throughout the state and shall have original jurisdiction subject to appeal of all crimes and offenses committed within the confines of the district in which such court is located which are punishable by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or both; and also including all violations of the provisions of RSA 263:69 pertaining to vehicles exceeding permitted size or weight regardless of whether the defendant is a natural person or any other person. Provided, however, that any town may vote to continue its municipal court in accordance with the provisions of RSA 502-A:35 shall have exclusive jurisdiction over offenses committed within the confines of that town, in accordance with the provisions of RSA 502:18, until such municipal court is subsequently abolished under the provisions of RSA 502-A:35.

Amend RSA 502:18 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

502:18 Criminal Cases, Municipal Courts. Municipal courts shall have the powers of the justice of the peace and quorum throughout the state and shall have original jurisdiction, subject to appeal, of all crimes and offenses committed within the confines of the town wherein such courts are located, which are punishable by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or both; and also including all violations of the provisions of RSA 263:69 pertaining to vehicles exceeding permitted size or weight regardless of whether the defendant is a natural person or any other person.

Sen. KEENEY: This bill combines both courts and fat trucks. As it came to us, requested by the department of safety, the problem was that when the department of safety stops an overweight or oversized truck, and it is not owned by a person and it is owned by a corporation, they cannot take their case into the district or municipal courts. The bill was presented so that they could. However the committee in looking it over, felt that the bill was broader than their intent and the amendment on page 22 and 23 makes the bill specific to the area that they find a problem. And if you have page 22 open the committee amendment begins 5 lines up from the bottom of page 22, starting "and also including all violations of the provisions of RSA 263:69, pertaining to vehicles exceeding permitted size or weight regardless of whether the defendant is a natural person or any other person." That any other person refers to the a corporation or a company owned vehicle. That same statement is again repeated on page 23, the last four lines of the committee's amendment. So what HB 382 does as amended is allow the department of safety to take these cases into a district or municipal court for disposition.

Sen. POULSEN: Does this bill also affect fat buses and fat trailers?

Sen. KEENEY: It would affect any that they would have to stop under that RSA 263 that I read.

Amendment adopted. Ordered to third reading.

HB 751, relative to the release of inmates at county houses of correction for the purpose of gainful employment. Ought to pass with amendment. Senator Fennelly for the committee.

Amendment to HB 751

Amend RSA 651:19, I as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

I. Any person who has been committed to a penal institution other than state prison under a criminal sentence may be released therefrom by the sentencing court at the time of sentence, or at any time during the term of sentence. The superintendent of the county house of correction may recommend to the county commissioners the release of a person for the purpose of obtaining and working at gainful employment. Upon approval by said commissioners, the superintendent shall permit that person to obtain work subject to the provisions of this section.

Sen. FENNELLY: This bill gives permission to the county commissioners who have the jurisdiction over the county farm the right for inmates who are incarcerated up there, maybe for DWI charges or he beat up his wife or he wrote a bad check for a period or 60 to 80 days. Under this bill, under strict supervision, he would be able to go out—it is tough enough for a man who is in prison—to go out and find employment—it will give him a chance to go out, try to find a job and if he does he will work and go back to the can in the evening. The county commissioner came down in favor of it, the law enforcement was there and it is the full committee's report that it ought to pass.

Sen. POULSEN: Senator would you believe me if I told you that this was done many years ago in the state of Vermont and they furnished us with help in the sawmill and the fellows at the end of the day would have to go back to jail and it worked out fine. They supported their family while they were in jail.

Sen. FENNELLY: That was the testimony in committee and that the county commissioners would have the power that if they violated it they would go back. There is an amendment on it and it is on page 23, and what the amendment does is give jurisdiction in the criminal cases and the superintendent of the county house of correction may recommend to the county commissioner obtaining gainful employment.

Sen. MONIER: Senator I have no objections except that I

want to ask a question. Current law now says what the first sentence in your amendment says. It says any person who has been committed to a penal institution etc. may be released therefrom by the sentencing court etc. Would you explain to me why we are all so happy that the superintendent and the county commissioners are now authorized to do this as well? Why don't we let the courts be authorized to do it?

Sen. FENNELLY: I refer to the Chairman of the committee, Senator Bradley on the amendment.

Sen. MONIER: Senator Bradley I guess my question is simply this: we now have a means by which you can have work release through court action for any prisoner on a county farm. My question is, why are we adding the superintendent of the penal institution to allow him out with approval of the commissioners?

Sen. BRADLEY: On this one I can only go by the testimony. This would make it more efficient and workable; it really wasn't necessary to go back to the sentencing court. To go find the judge who did the actual sentencing—it was the feeling of those that testified, that there was sufficient protection under the scheme of the superintendent recommending to the county commissioners that they could evaluate it reasonable well also and it would work more efficiently and easier and cheaper for that matter.

Sen. MONIER: Doesn't this mean though that we are removing from the judicial process and providing to an administrator that same authority which we now vest in the judiciary?

Sen. BRADLEY: Yes that Sen. BROWN: Once the person is sent there, and it is agreed that a person is ready for a work release program, what is involved with them going back to the original judge and getting his permission, his opinion, what is involved?

Sen. BRADLEY: Basically it is getting a hearing before the judge wherever he may then be sitting which may involve transporting the people, presumably more than one or two. Perhaps the man himself and the superintendent or the county commissioner to go and present the case to the judge. Bear in mind that what we are dealing with here is the people in the house of correction. We are not dealing with the felons. These are people in the house of corrections for less than a year on misdemeanors. Again it was the testimony which I accepted and I cannot say that I have any real personal feel for the situation. It was the testimony of several people who ap-

peared before us that this would be a more workable arrangement.

Sen. BROWN: Would it be possible Senator for the superintendent of the penal institution or the commissioners to call the judge even though he may be in another county and discussing with him and recommending it. Couldn't he not send an order down authorizing it?

Sen. BRADLEY: I guess that is possible. Usually the judges do not like to act on such things by telephone. It is not a customary way of handling this kind of thing but it is not beyond the realm of possibility.

Sen. BROWN: What is your honest opinion in giving this authority to superintendents and commissioners. Don't you think that there could very possibly be grave mistakes made here? Rather than letting it stay in the courts where it is?

Sen. BRADLEY: My think on it is that the people. . . The judge would be the one who heard the evidence if there was a trial and in many cases there might have been a guilty plea so there might have been not much of any evidence. It is true that the judge would have heard about the crime and perhaps on sentencing he heard something about the individual but the superintendent is the one who is going to be closest to the situation when the issue comes up. I guess it is my feeling that the superintendent who is on the spot day to day, and can observe him and find out about what his situation is and how well he has acted and so forth, with the check of the commissioners overlooking his decision or having to ratify his decision, that they are on the whole in as good a position as the judges to make the decision. That was my own personal view of the thing. I don't feel that it is necessarily all that clear that they are any better than the judge.

Sen. BROWN: Do you suppose it is possible for an inmate, if the superintendent had this authority, do you suppose it is possible that the inmate could side up with this fellow intentionally to just get out whereas perhaps the judge knowing the facts of the case would be better able to determine what to do?

Sen. BRADLEY: It might happen although I think on the whole the mistakes might be worse on the part of the judge than on the part of the superintendent.

Division vote: 10 senators voted yea. 6 senators voted nay.
Amendment adopted.

Senator Monier moved to lay HB 751 on the table.
Adopted.

Senator Poulsen moved reconsideration on HB 856.
Adopted.

HB 856, relative to the inspection of used motor vehicles offered for sale by retail dealers.

Senator Poulsen moved that HB 856 be placed on second reading at the present time.
Adopted.

Senator Poulsen moved that HB 856 be recommitted to the committee on Transportation.

Sen. POULSEN: Mr. President, it is my intention that if this motion carries that I would ask that this bill be recommitted to the committee. It seems that in the heat of battle we made a mistake. The committee voted the bill through with an amendment and in the course of ordering it out has neglected the amendment so we passed the bill that wasn't in the form that we thought it was when we acted.

Adopted.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, May 25 at 3:00 p.m.

Adopted.

Late Session Third Reading and Final Passage

HB 714, amending article 8 of the uniform commercial code relative to the duty of an issuer to inquire into adverse claims.

HB 836, relative to the taxation of residence in industrial or commercial zone.

HB 696, eliminating the requirement of advertising lost passbooks and regulating the assignment of savings deposits.

HB 689, relative to town funds on deposit in any one bank.

HB 472, relative to the regulation of small loans.

HB 464, relative to the loaning authority of cooperative banks, building and loan associations and savings and loan associations.

HB 613, relative to investments by savings banks in unsecured loans.

HB 848, requiring optometrists and ophthalmologists to report all discovered cases of bad vision to the bureau of blind services.

HB 928, relative to veterinarian licenses.

HB 382, relative to the jurisdiction of district courts in criminal matters.

Adopted.

Senator Healy moved to adjourn at 6:20 p.m.

Adopted.

Wednesday, May 25

The Senate met at 3:00 p.m.

A quorum was present.

Senator Smith in the chair.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Dear Lord, as our days lengthen and our future takes on an extra glow make us mindful of all you have taught us in the past and for the blessings which will come to us as we learn to live wisely and conserve our strength for those things of true value.

May we face the future with hope knowing that you have greater gifts in store for us than we can possibly imagine. Help us to rest quietly each night, conscious of your guidance during our busy days.

Grant us thy continued help.

Amen

Senator Keeney led the Pledge of Allegiance.

INTRODUCTION OF GUESTS
HOUSE MESSAGE
HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 674, 1143, 487, 597, 1020, 546, 553, 559, 739, 1121, 640, 680, 433, 1086, 582, 314, 874 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 674, relative to conferences of probate judges. To Judiciary.

HB 1143, relative to unemployment compensation (RSA 282). To Insurance.

HB 487, relative to the publication of the Revised Statutes Annotated. To Executive Departments.

HB 597, relative to the application and expenditure of federal funds and making an appropriation therefor. To Finance.

HB 1020, relative to the development of aquaculture and permitting a special license for mariculture. To Recreation.

HB 546, relative to detective and security agencies. To Administrative Affairs.

HB 553, relative to search and rescue operations; establishing a search and rescue review board and making an appropriation therefor. To Finance.

HB 559, relative to the reorganization of the New Hampshire transportation authority. To Transportation.

HB 739, relative to control of explosives. To Judiciary.

HB 1121, relative to public ethics and making an appropriation therefor. To Administrative Affairs.

HB 640, relative to the regulation of physical therapists. To Public Institutions.

HB 680, relating to the replacement and road repair of a certain bridge between Walpole, New Hampshire and Belows Falls, Vermont. To Transportation.

HB 433, to create and provide police powers for the security forces at certain state institutions. To Judiciary.

HB 1086, changing the name of the New Hampshire Home for the elderly to the Glencliff home for the elderly; and transferring the Glencliff home for the elderly from the division of public health to the division of mental health. To Executive Departments.

HB 582, providing for additional state revenue. To Ways and Means.

HB 314, improving procedures of the medical board for supervising medical claims. To Public Institutions.

HB 874, repealing the law that exempts the department of employment security from the right to know law. To Administrative Affairs.

COMMITTEE REPORTS

HB 910, relative to double doors. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: Mr. President, this is really a housekeeping bill, it just requires that in any building open to the public both doors must be opened from within. It is a safety measure and people have had accidents thinking that they can go through the door and sometimes it was locked and the committee felt that this was a good safety measure and we all moved that the bill ought to pass.

Adopted. Ordered to third reading.

HB 272, placing petrochemical plants under the authority of the energy facility evaluation committee. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: Mr. President, petrochemical facilities are mostly the factories that are energy related and it was felt that these should be put under the authority of the energy facility evaluation committee. This came out of the environmental committee in the house and the science and technology committee jointly and we felt this was a good bill and it would facilitate everything and we feel that it ought to pass.

Sen. MONIER: In looking at this bill as I understand it, it came out as amended. The purpose of the bill was to have

large petrochemical plants such as rubber plants, placed in the jurisdiction of the site review board. What happened to that particular phase of it?

Sen. FOLEY: I thought it was still in.

Sen. MONIER: Incidentally I am not trying to trap you. If you look at the definition as it now stands, a petrochemical plant as amended, it makes no distinction between large or small plants but it places the siting of a chemical processing plant with feedstocks derived from petroleum or petroleum-intermediary sources under the site review board's jurisdiction. Is this really something that we ought to be doing. Doesn't that let the bill go too far—it would include virtually any manufacturing plant that would use plastics, rubber or other petroleum synthesizers?

Sen. FOLEY: It was felt that a petrochemical plant wouldn't even think of coming to an area unless it was in the vicinity of one of these energy producers and this is why. That is the way I understood it.

Sen. MONIER: I don't mean to belabor the point. I can recognize what your concern is—you feel that you have not come there but the bill as it is now amended actually puts any kind of a plant which deals with a feedstock which is derived from petroleum or petroleum intermediary sources under the site review board's jurisdiction. That could include synthetics, it could include rubber, it could include anything like that at all.

Sen. FOLEY: I think that this is what the bill meant to do. Because it did include plastics, it did include others things that go under a site review board's jurisdiction before it could go to any area.

Senator Monier moved to lay HB 272 on the table.
Adopted.

HB 282, placing a consumer on the commission of pharmacy and practical chemistry. Ought to pass. Senator Foley for the committee.

Sen. FOLEY: Mr. President this bill simply increases the membership of the commission of pharmacy and practical chemistry from 5 to 6 members and one member they do not

feel should be a registered pharmacist and should represent the interests of the consumer. We recommend its passage.

Adopted. Ordered to third reading.

HB 1060, legalizing certain action taken by the town meeting in the town of Durham. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, the 1976 town meeting in the town of Durham voted by division to make certain property exemptions for people who install solar energy systems in their homes. Unfortunately the law required that that be a written ballot. So the town of Durham would like to have us legalize the act which they took at that time.

Adopted. Ordered to third reading.

HB 702, relative to vicious dogs or dogs as a nuisance. Ought to pass. Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, the house, municipal and county government at the end of last session, established an interim study committee on animal control legislation and this committee which is made up of veterinarians, health officers, dog officers and just plain interested people have done a rather comprehensive job of looking at the statutes which control animals and which need attention by way of strengthening so HB 702 redefines what dogs are a nuisance, what dogs are a menace and what dogs are vicious. It also provides having done that, it tells you what each one of those categories evokes or provokes and it also provides that there will be penalties in case a person violates any of the provisions of this statute. It provides a \$10.00 fee for nuisances, \$15.00 for menaces and \$25.00 if the dog is proved to be vicious, that means if he bites, attacks, or preys on humans or game animals. If this happens three times, you have an animal that gets charged three times for these offenses then you will have to appear in a district municipal court and face the judge.

Sen. SAGGIOTES: Senator would this interfere in any way

with present ordinances or municipalities which might be more restrictive than this law?

Sen. HANCOCK: I would say that the local ordinance if it is more strict that it would prevail.

Sen. JACOBSON: Senator on page 2 of the bill, IIb, how do you establish the proof of that?

Sen. HANCOCK: Well sir I am sure whether he digs, scratches or excretes?

Sen. JACOBSON: Yes.

Sen. HANCOCK: Well I suppose you could tell if you step in it, perhaps that might be adequate proof or if you have a scratch on your arm or if he digs in the ground. I don't know maybe you have to take a Polaroid picture. I would say that probably a witness to the fact.

Sen. JACOBSON: If there are ten dogs in the neighborhood how do I know which dog did it, even though I stepped in it?

Sen. HANCOCK: I would say sir that it would have to be on identification of yourself or someone else. You might be able to identify the dog and you saw it digging or scratching?

Sen. JACOBSON: If I saw it doing it I may or may not be able to identify it.

Sen. HANCOCK: Well then if you didn't . . .

Sen. JACOBSON: What if it is ist post facto?

Sen. HANCOCK: Well that's tough.

Adopted. Ordered to third reading.

HB 555, creating a state historical records advisory board and making an appropriation therefor. Ought to pass. Senator Monier for the committee.

Sen. MONIER: This is a bill that creates a state historical records advisory board. For the purposes of performing and taking care of a state historical records project in cooperation with the National Historical Publications or Records Commission, the members of the advisory board are to be reimbursed for their reasonable expenses only. We have within our state today no documented way or means by which records which are being put away from various agencies as well as municipalities any means of screening them for historical value. That's exactly what this does. Mr. Vosey who is a state historical archives man, has under executive order, the authority under 764, an executive order, to do this. But what he

does not have is statutory authority which allows him to request federal money to assist him in this project. So all this does really, is to put into effect what now is in effect by executive order and it was supported by everyone who was there of the New Hampshire Historical Society, the Library Commission, Mr. Vosey himself and a copy of the grant was attached and they cannot receive this additional funds for storage and maintenance, etc., without it being a statutory law.

Adopted. Ordered to third reading.

HB 1163, legalizing the 1977 annual town meeting of Exeter. Ought to pass. Senator Monier for the committee.

Sen. MONIER: This bill legalizes, as it says, the 1977 annual town meeting held in the town of Exeter. They failed to post a budget with the warrant at the particular time. Obviously it was there but they had not posted it at a proper time and they went ahead and voted on it. The vote was there, the certification of the town clerk was given to the committee, there was no problem, this is to legalize it.

Adopted. Ordered to third reading.

HB 355, regulating health maintenance organizations. Ought to pass. Senator Monier for the committee.

Sen. MONIER: Mr. President, at the present time there is operating in the state of New Hampshire one such health maintenance organization and I am trying to find the name—Matthew Thornton Agency. They at the present time are authorized to operate under the law and so forth. They are planning on expanding their type of services and other agencies have expressed interest in extending this type of services and this particular bill provides for their regulation by the insurance commissioner. At first when I read this of insurance commissioner I questioned and thought that it should be health and welfare but recognized as soon as I got into it and the testimony that what it literally is, is an insurance program. And this is an agreed upon bill by the insurance department, by the health maintenance organization and with the consent of the HSA the health systems agency for the state of New

Hampshire and the SHICK which is the state health coordinating counsel under the new public law 93641. As a result it is a step forward in a new endeavor with respect to the certificate of authority from the insurance commissioner to operate a health maintenance organization. There were several people who spoke for it and gave us a very good analysis of what they do and how they operate. There was no one who appeared before the committee in opposition to it and it seemed like for once we were solving a problem before it actually created more problems. The committee was unanimous.

Adopted. Ordered to third reading.

HB 804, conforming the New Hampshire clean air act to the requirements of the federal Environmental Protection Agency. Inexpedient to legislate. Senator Brown for the committee.

Sen. BROWN: This bill refers to the Air Pollution Commission. This bill far exceeds and is much more stringent than the federal law that presently exists. The federal law at the present time is under challenge in the courts. It requires that exhaust emission on vehicles that garages would proceed and perform this function, it was also found that these emission machines that are used to test the emissions is so expensive that there aren't any garages that can afford it therefore it would have to fall back onto the state. There is no appropriation for it.

Senator Hancock moved to lay HB 804 on the table.
Adopted.

HB 227, relative to procedures for appointment and removal of deputy commissioner of safety. Ought to pass. Senator Brown for the committee.

Sen. BROWN: Mr. President, this bill sets up the qualification for a so-called deputy commissioner. The deputy commissioner shall be especially qualified with previous training to perform all duties assigned to him and be removed for cause by the commissioner. As far as the dismissal is concerned it stays the same. It sets up a qualification for appointment and it also states that he shall have jurisdiction over

fiscal matters within the department in the absence of the commissioner.

Sen. FOLEY: I just wondered why in the bill did they put the qualifications. I thought that the personnel people decide the qualifications, I don't remember ever seeing actual qualifications as part of legislation.

Sen. BROWN: I don't remember that part of the testimony. I will refer to the chairman Senator Monier.

Sen. MONIER: I don't know that it will answer your question but I can tell you why it is there it is because it is an appointment by the commissioner and there have been people around who approved this and the governor approved that portion of it in that it should be someone who had experience in that particular field which takes it somewhat out of the realm—it is not a personnel matter because it is not a classified position.

Sen. FOLEY: Any appointive position then, nothing that doesn't go through personnel, I never saw any of those either.

Sen. MONIER: I don't know that I have either to be frank. But the question was raised about that and it really doesn't set specific ones it merely says that he must have experience in certain areas. I think it is primarily because he is appointed and removed by the commissioner. Now I wouldn't argue about it one way or the other—I responded to your question. I think one of the answers was that it was a fear on the part of some people that they might put some political person in there and if he had no experience with that particular branch, because this bill also does provide senator, that for the first time he may act for the commissioner when he is away in financial matters. That's been something that the statutes haven't been able to do. So if something happened about warrants or anything else that came up or about payrolls or anything that had to get the approval of the commissioner and they didn't know where he was and so this was probably put together at the same time.

Adopted. Ordered to third reading.

HB 881, relative to recovery of local assistance. Ought to pass with amendment. Senator Monier for the committee.

Amendment to HB 881

Amend RSA 165:20 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

165:20 Recovery of Expense. If a town spends any sum for the support, return to his home, or burial of a pauper having a settlement in another town, or of a county pauper, or of a pauper having relations able to support him under RSA 165:19 such sum may be recovered from the town, county, or relation so chargeable. In any civil action brought under this section to recover such sum, the court shall award to the prevailing party costs.

Sen. MONIER: There is an amendment to this bill on page 22. The amendment in here does very little except it takes out one portion of the bill which most of the committee objected to which states "the prevailing party costs and reasonable attorney fees and it amends it to "any civil action brought under this section to recover such sum, the court shall award to the prevailing party costs." It is just a matter of wording and I think we have to vote on the amendment first if I am not correct, Mr. President. I speak for the bill, it is a very simple one. Janet Andrews of the New Hampshire Municipal Association came in and supported it. Two of the representatives that were sponsors were there, there was no opposition to it. In a sense this bill requires for a settlement when a pauper or someone who has no known assets or has relations that are required by law to support him to a word if a town buries him. That's what it boils down to.

Amendment adopted. Ordered to third reading.

HB 756, relative to acceptance of petitions by the planning board. Ought to pass with amendment. Senator Brown for the committee.

Amendment to HB 756

Amend RSA 36:8 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

36:8 Organization, Meetings and Rules. The planning board

shall elect its chairman from the appointed or elected members and create and fill such other offices as it may deem necessary for its work. The term of chairman shall be one year, with eligibility for re-election. The planning board of a city shall hold at least one regular meeting in each month and the planning board of a town or village district shall hold at least one regular meeting every 3 months; provided, however, a town planning board shall meet 120 days before the town meeting date to accept petitions for zoning and building code changes. Following receipt of the petitions for zoning and building code changes, 120 days before town meeting, the planning board shall post the first hearing immediately and subsequent hearing pursuant to the procedure as specified in RSA 31:63-a. The planning board shall adopt rules for the transaction of business and shall keep a public record of its resolutions, transactions, findings, and determinations.

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Planning Board Vacancies. Amend RSA 36:7 (supp) as amended by striking out said section and inserting in place thereof the following:

36:7 Filling of Vacancies in Membership. Vacancies in the membership of a planning board occurring otherwise than through the expiration of a term shall be filled for the duration of the unexpired term by the:

I. Mayor for members selected or appointed by him.

II. Council in the case of a councilmanic member.

III. Appointing power which has been designated by the council in municipalities in which the mayor is not an elective officer.

IV. Selectmen for members selected or appointed by them.

V. Elected planning board members for elected members and alternates.

VI. District commissioners for members selected or appointed by them.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. BROWN: Mr. President this bill refers to petitions for changes in zoning and building codes. The original bill said

that a meeting shall be held 60 days and then it was amended to 130 because in testimony it was found that advertising, posting the hearing and time by law that has to take place and so forth that in no way could they do it in 60 days so it was amended to 120. The further amendment is in relation to alternates of elected planning boards. There was a case in point in the state in a town where an elected planning board to elect their alternates, they consulted the town council and the town council stated that it was a very gray area and he didn't know by the statutes because it was not clear if the selectmen would appoint them or the planning board would elect them. So this amendment states that if it is an elected planning board they will appoint their own alternates.

Sen. BOSSIE: on page 1544 of the house calendar the House amended the bill in the first place and now the committee is going to amend it again, what is the difference between what they did and what you people plan to do?

Sen. BROWN: You mean in relation to the period of time?

Sen. BOSSIE: With relation to the entire amendment, I want to make sure that there is nothing in here that we are not aware of.

Sen. BROWN: As far as what the House did I can't answer, I am going by what we received from the House Senator and as we received it from the House it was 60 days as I recall. Through discussion in testimony in the committee it was definitely a conclusion that 60 days was not able time because of advertising, posting of times etc. I will give you a case in point. I think it was two years ago in the town of Derry. They voted to elect their planning board, previous to that they were appointed by the selectmen. Now the elected planning board has met; they feel that during the summer months some of them will be absent and in the past the selectmen have appointed the alternates to take their places. The elected planning board feels that they were elected and thereby responsible to the people and they should have the right to appoint their own alternates. So the two bodies, the selectmen and the planning board got together and consulted town council and that is who we saw. He could not give an answer, the statutes were unclear. The Derry delegation, all six reps, wanted to sponsor a bill to do this in the house but it was too late so they came to me and asked me to do it to resolve it.

Sen. BOSSIE: if we have 120 days as per the amendments

that your committee proposes how will that differ from the way it is now?

Sen. BROWN: I don't know, do you know Senator Monier?

Sen. MONIER: No I don't but what is in the statutes now does not set a date in which the petitions must cease. If I am not mistaken Senator Bossie this statute does not have a time element at which a petition for the town meeting must be in and they established one, and I think they established 60 days. Now whether that is an amendment or not to the house I can't answer that. And it might be alright in a major city where you have a large enough board and the way that they do it is a different form but you take a small town on a planning board and you do it in 60 days they haven't got time enough so we amended it to 120 days.

Sen. JACOBSON: This 60 days versus 120 days, is that the only time that they can submit these amendments to the zoning ordinance?

Sen. MONIER: It means that now up to 120 days before the posting of the warrant, is the last day that they may put in a petition.

Sen. JACOBSON: This relates to RSA 3163-A.

Sen. MONIER: I assume that you are correct, I don't have the bill in front of me.

Sen. MONIER: It is my understanding that at the present time and Senator Bossie looked this up, that there is no deadline at the present time for petitions for this to the planning boards. As a result this bill from the House set a deadline, we did not agree with the date that it set and set 120 days instead of 60.

Sen. JACOBSON: Mr. President I am satisfied that the committee has done the proper job, originally I only had the change 60 to 120 days leaving other portions in the bill which would be in conflict with 3163- A but the committee very wisely took out all of that stuff and simply gave it 120 days and referred to RSA 3163-A which then makes it conjoined, consistent and congruent.

Sen. BOSSIE: I would like to concur with the statements of my good Senators Brown, Monier and Jacobson on this bill. The amendment seems to clear up any problem that we may have had. I think it will be an advantage to the town because they will all have time and time is of the essence when you do these things at town meetings.

Sen. KEENEY: Senator Brown didn't you say that it referred to alternate members of a planning board and I haven't been able to find anything in the bill or the amendments, did I misunderstand?

Sen. BROWN: On page 24 Senator Keeney, number 5, elected planning board members and alternates, allows the elected planning board to appoint their alternates.

Sen. KEENEY: Oh I see.

Amendment adopted. Ordered to third reading.

HB 754, granting authority to the commissioner of health and welfare to appoint acting directors of the division of the department. Ought to pass with amendment. Senator Monier for the committee.

Amendment to HB 754

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Acting Directors of Divisions; Appointments. Amend RSA 126-A:6-a as inserted by 1961, 222:1 by striking out said section and inserting in place thereof the following:

126-A:6-a Acting Directors of Divisions; Appointments. Each division director with the approval of the commissioner shall appoint one member of his staff who shall act in his stead when said director is absent from the state and at such other time as he is so directed by the director. If a vacancy occurs in the position of director of any of the divisions of the department, the commissioner shall appoint with the approval of the governor and council, one member of the staff of the division to serve as acting director of the division. When acting for or as the director said person shall have all the power, duties and authority of the director.

Sen. MONIER: May I suggest that anybody that is interested in this bill to please look at the amendment. The original bill and the amendment are different. We are going to be dealing with the amendment not the bill. The reason I say that is because the amendment strikes out everything after section 1 and substitutes what is on page 24 of today's calendar. Now what that does is it adds one thing in it—the original

bill said "shall appoint one member of the _____ of the division of service acting direction of that division". The amendmend adds within there "shall appoint the approval of governor and council one member" and that is the only difference between the amendment and the bill. One or two things that you should know. The bill is an agreed upon bill between the commissioner of health and welfare, the advisory board of the health and welfare association, the governor's office and all those who have been working on the bill and the sponsors I might add. Mr. Drake representing Mr. Whalen, came in with the amendment to it to add with the approval of governor and council and that was the only thing of issue within it. At the present time, the appointments for this are in a confused state. The clarifies and clears them up completely. It says as follows: "each division director with the approval of a Commissioner shall appoint one member of his staff who shall act in his stead when such Director is absent from the state and at such other times is so directed by the Director. If a vacancy occurs in the position of director or any of the divisions of the department, theCommissionershall appoint with the approval of governor and council one member of the staff of the division and I make that clear, to serve as acting Director of the division. When acting for the Director said person shall have all the power, duties and authority." This clarifies the chain of command in the various divisions and departments within the Department of Health and Welfare.

Amendment adopted. Ordered to third reading.

HB 926, amending the town charter of Hanover allowing selectmen to establish one or more parking districts. Ought to pass as amended. Senator Preston for the committee.

Amendment to HB 926

Amend 1963, 374:17-a, II as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

II. The selectmen shall establish a separate inventory for the purpose of assessment of taxes and establishment of parking space fees of the property located in each parking district.

Amend 1963, 374:17-a, III as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

III. The selectmen shall establish a separate inventory setting forth the off street parking requirements for each property in the district by using as a measure the off street parking requirements set forth in the town zoning ordinance regardless of whether or not such requirements apply under the town zoning ordinance to any particular property. An individual property's required off street parking spaces as reduced by the number of such parking spaces actually provided as of the first day of April in each year, shall be the adjusted parking requirement.

Amend 1963, 374:17-a, VI as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

VI. The parking space fee for each property in the district shall be equal to the proportionate share that each property's adjusted parking requirement bears to the total adjusted parking requirements for all property in the district. All such parking space fees shall become a lien upon the property so charged and such lien may be enforced by a suit on behalf of the town ordered by the selectmen against the owner or owners of such property. The record in the office of the selectmen and the charges for the parking space fee set forth therein shall be sufficient notice to maintain suit upon such lien against the subsequent purchasers or attaching creditors of such real estate. In the event that the off street parking requirements set forth in the town zoning ordinance are amended, then the inventory of off street parking requirements for each property in the parking district shall be adjusted accordingly.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Referendum. This act shall not take effect unless it is adopted by a majority vote of those present and voting at the meeting of the voters of the town of Hanover on March 8, 1978, or at any duly warned special or regular meeting held

prior or subsequently thereto. The clerk of the town of Hanover shall cause to be printed at the bottom of the ballot to be prepared for this occasion; the following question: "Are you as a voter of the town of Hanover in favor of amending Hanover's charter to provide for the establishment of a special parking district or districts?" Beneath this question shall be printed the word "Yes" and the word "No" with a square immediately opposite each word in which the voter may indicate his choice. If the majority of those voting at said election vote in the affirmative on this question, this act shall be declared to have been adopted. The town clerk shall within 10 days of said election certify to the secretary of state the result of the vote on the above question.

Sen. PRESTON: This bill authorizes the town of Hanover to establish separate parking districts. It is enabling legislation and would be voted upon. If you are familiar with a community like Hanover where there is restricted parking, it would be put out for referendum; the cost would be shared, 50% by those benefiting in the particular districts. It is a local option bill and has been approved by the selectmen and study committee in Hanover.

Amendment adopted. Ordered to third reading.

Senator Bradley moved to take HB 804 from the table.

Adopted.

Senator Bradley moved to make HB 804, conforming the New Hampshire clean air act to the requirements of the federal Environmental Protection Agency, a special order for 1:01 p.m. Thursday, May 26.

Adopted.

HB 388, relative to the monthly rate for the care, treatment, maintenance and training of any resident of the Laconia State school and training center. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: Mr. President, members of the senate, this bill was requested by the Department of Health and Welfare. It pertains to the Laconia state school to set up a maintenance and training program and by doing so we can get \$92,000 worth of federal funding, \$110,000 back from the

school district and it can come under medicare for some people who are not there now. It is a bill that we should pass to help them get some money, they are already planning to spend it in their budget and it is a matter of relining up how they want things done and we saw no problem with it at all, nobody spoke against the bill, quite a few people came in and spoke in behalf of Laconia state school. I recommend its passage.

Adopted. Ordered to third reading.

HB 621, relative to the placement of children in licensed facilities. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: This bill again, was requested by the Department of Health and Welfare. What it is saying here is that any neglected child or person in need of supervision or PINS, as we have known them in other sessions here, when they are placed by the court they must be placed in homes that are controlled by a relative or public institution or facilities or foster homes which are licensed under the public health and welfare. At the present time now, some judges have an occasion to place a child in a home which the ment of Health and Welfare does not have jurisdiction over and they cannot go in and inspect it, they don't like the way it is being done and they would like to have it done in this manner in the future.

Adopted. Ordered to third reading.

HJR 4, for the purpose of requesting appropriate action by the Congress, acting by consent of $\frac{2}{3}$ of both Houses to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year. Ought to pass. Senator Rock for the committee.

Sen. ROCK: The committee was very impressed by the testimony given by Representative Richardson on this bill. For the purpose of requesting action by the Congress either by acting on $\frac{2}{3}$'s of both houses or application of the legislature's $\frac{2}{3}$'s of the states, to call a convention to propose an amendment to the federal constitution require with such ex-

ceptions such as war, the total of all federal appropriations not exceed the total of all estimated revenues. I hope it is the way that we are still running our state and it is memorializing them that that might be a better way to run our federal government. Representative Richardson was quite moving with his testimony and felt it was a good thing.

Sen. BOSSIE I rise in opposition to this joint resolution, not for the merits of the content which are okay but for the fact that I reminded the Senate several weeks ago, we call a constitutional convention it is like putting a match to a gas tank. And they are going to consider everything under the sun, there is no way to limit it. I think that we desire these things that are admirable but I think the disease is worse than the remedy in this case. I certainly can't support this strictly for that purpose and I would encourage my fellow Senators to discourage this sort of thing.

Sen. TROWBRIDGE: Every seven years or so we have a constitutional convention here in the state which is empowered to bring up for the voters any item it wants to. During that time I have seen it in process twice in my career, maybe 300 different constitutional measures are brought up and it comes out with the dribs and drabs of maybe 5 to 9 or 14 measures half of which are non-controversial. Why is everyone so afraid of having constitutional conventions if the experience we have had here and I am sure other states have in their own state constitutions hasn't shown that everybody comes in and tears apart the bill of rights and repasses everything.

Sen. BOSSIE: I think the reason is Senator, and you know as well as I, never once has one been held so we don't know what they would be doing. We have no idea as to what they would do and frankly every constitutional expert and I haven't spoken with our good Senate President, I noticed his ears perked up, I haven't spoken with him about it, but every other one that I have either heard of, read about, was strongly opposed to these based upon that. Why have these, let the Congress do their work, they can pass these statutes, we don't need to have any constitutional convention.

Sen. TROWBRIDGE: Then what you are saying is that the Congress can take care of this without a constitutional amendment but aren't you a little afraid that those people who are scared of having constitutional conventions know that their entire sum of knowledge might be wiped out and they

wouldn't be experts anymore if there were a constitutional convention.

Sen. BOSSIE: It's possible but it may also be possible Senator Trowbridge, that we will not be smiling after some of these conventions get going. You know some things that little New Hampshire really likes or really hates can be changed around very readily and our little votes really make no difference when it comes to the whole. I am not scared of what the federal government will do, they do a little too much, and by having a convention of this sort I think that we would encourage them to do a lot more than we anticipate.

Sen. BLAISDELL: Senator, every session that you and I have been here I have seen similar bills or resolutions come before this Senate and every time you and the Senator from the fifth district are on your feet immediately screaming against it because you are scared of convention. What I am really interested in is that if there is a convention and they come out with several items like we do in our constitutional convention do those immediately become part of the constitution or do they have to go through the process?

Sen. BOSSIE: They would have to be ratified. Now Senator, you as well as I know, you even more so than I, are fairly fiscally conservative. Why encourage great expense to have this sort of a giant growing as part of our government when it is really not necessary. We are even wasting the money printing a resolution of this sort when we know damn well that it is just never going to happen. It won't probably during our immediate lives.

Sen. JACOBSON: Senator Bossie, as I understand it the former Senator from North Carolina, Senator Sam Erwin was recognized as the most distinguished constitutional lawyer with regards to the federal constitution, is that correct?

Sen. BOSSIE: I would suggest that there are perhaps law professors who might be more knowledgeable but I understand that he was knowledgeable.

Sen. JACOBSON: As I understand it the issue was if we should call a constitutional convention it would in fact open it up to all the potential vagaries in quite a different way from a limited constitution such as the state of New Hampshire. Is that correct?

Sen. BOSSIE: I would suggest yes.

Sen. JACOBSON: So that a person, he may not be the most distinguished constitutional authority but as far as a public

person is concerned, that his feeling ought to be taken into account, is that correct?

Sen. BOSSIE: Yes to some extent. We wouldn't want to make it an exclusive, he is one of many that are knowledgeable on the subject.

Adopted. Ordered to third reading.

HB 366, requiring results of second reading votes be included as part of questions proposing constitutional amendments. Ought to pass. Senator Rock for the committee.

Sen. ROCK: Mr. President we have discussed on the floor of the Senate and in committees on many occasions, the problem that we have in putting forth to the voters of the state, proposed changes of a constitutional nature. Now there is no regulation that precludes us from printing reams and reams of information on an amendment on a booklet or in the newspaper, or on the radio as the press does, commendably, but the courts have ruled that your language on the ballot must be very precise. Example case in point of prime cognizance to members of the Senate is the increase in the pension issue, by constitution we can only vote for one year and we get into the hassle every time no matter how we explain it or what we try and hopefully this year we may have overcome that difficulty to inform the electorate and we wind up with a no vote even though the legislature may have voted in the House 366 to nothing and the Senate voted 23 to nothing but this was a reasonable change, we find misunderstanding on the part of voters, we find voters who have not studied the issue or read the question and their tendency is to vote no if they don't understand it. Representative Eaton a legislator of great repute said why don't we put under the question how the House and the Senate voted on this issue. That it was an overwhelming vote, or that it was a very close vote when they voted their $\frac{2}{3}$ change in the constitution. And maybe then the voter would say well I didn't study it and I don't understand it but I trust Senator McLaughlin and I trust Senator Trowbridge and I trust Senator Fennelly, well maybe I don't want to go that far, and so we are telling the voters how we voted on the issues in numbers when we put it before them on the ballot. It was a way, hopefully, to show that there was very strong

support in the legislative halls for the issue. The committee recommends the adoption of HB 366.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Sanborn moved that the rules of the Senate be so far suspended as to allow the introduction of committee reports on HB 691 and HB 894 with only one day's notice of hearing at the present time.

Adopted.

HB 691, relative to a program for special education. Ought to pass with amendment. Senator Sanborn for the committee.

Amendment to HB 691

Amend the bill by striking out section 1 and inserting in place thereof the following:

I Definitions. Amend RSA 186-A:2, I, II, III, IV and V (supp) as inserted by 1965, 378:1 as amended by striking out said paragraphs and inserting in place thereof the following:

I. "Physically handicapped" shall mean a person 3 years of age or older but less than 21 years of age, married or unmarried, whose activity is or may become so far restricted by reason of a physical defect or infirmity, however caused, as to reduce his normal capacity for education or self-support, or both.

II. "Intellectually handicapped" shall mean a person 3 years of age or older but less than 21 years of age, married or unmarried, whose activity is or may become so far restricted by intellectual handicap, however caused, as to reduce his normal capacity for education or self-support, or both.

III. "Emotionally handicapped" shall mean a person 3 years of age or older but less than 21 years of age, married or unmarried, who, by reason of internal emotional conflicts, home conditions or general environment, has behavior or learning problems or both, or is otherwise unable to make normal social or educational adjustments but who has sufficient intellectual and emotional capacity to be enabled with

clinical diagnosis, proper treatment, training and remedial education to become a responsible and self-supporting citizen.

IV. "Handicapped child" shall mean any person 3 years of age or older but less than 21 years of age, who is handicapped by one or more of the above-defined handicaps.

V. "Approved program" means a program of education that has been approved by the state board of education and that is maintained by a school district, private organization or state institution for the benefit of handicapped children. The state board of education is authorized to collect fees and make disbursements for the purpose of administering the non-public special education program approval process. Monies collected from these fees may be used by the state board of education only for the above stated purpose, and shall not lapse.

Sen. SANBORN: First the amendment Mr. Chairman, and you will find it in your calendar on page 21. What the amendment does as requested by the state board of education and so forth, was to define, to provide definitions of physically handicapped, intellectually handicapped and emotionally handicapped child. Also to add V. an approved program and in that approved program you will note that it says "an approved program of education that has been approved by the State Board of Education and that is maintained by a school district, private organization or state institution for the benefit of handicapped children. The State Board of Education is authorized to collect fees and make disbursements for the purpose of administering the non-public special education program approval process. Now this is only where they will collect a fee and a small fee and what they have seen on the legislative records that this would be a small fee of about say \$25.00 per year and the only thing this is used for is to send some person from the Department of Education to these special schools such as the Easter Seal School in Manchester to look at that program and approve of it. And that is the basis of the amendment. The whole bill is sometimes said a simple little bill. It covers handicapped children and I think that one of the best things that can be said are the remarks written by Representative Busey of Londonderry to the chairman of the Senate Education Committee. He states, he was unable to attend because he is in the hospital and he states that I am in very

strong support of HB 691 as amended. The Education Committee of the house saw the merit of this bill and there was a strong mandate of laws 94-142 from the federal government. And all things considered unanimously passed the house bill. He continues to say that he had in the past opposed such legislation because he could say also the cost of it. However under public law 94-142 there is a section that refers to public law 93-112 section 504. Section 504 of public law 93-112 says: non-discrimination under federal grants, and states no otherwise qualified handicapped individual in the United States as defined in section 7(6) shall solely by reason of his handicapped, be excluded from the participation in or be denied the benefits of or be subject to discrimination under any program or activity receiving federal, financial assistance. What does that say, that says that we must not, under the federal laws of discrimination, discriminate against any child because that child is handicapped. Public law 94-142 continues: and says that every child from age 3 to 21 shall receive a free education. That is the basis of HB 691. This has been carefully studied for over a year. Representative Busey, myself and a person from the Department of Education attended a seminar this winter in Boston and this was more or less finalized for this reason. If we do not accept this at this time we are subject to losing federal funds, large amounts. The federal funds at present will give us about \$400,000 to start, to be distributed to the various school districts in this state on the basis of about \$40.00/handicapped child. Another \$400,000 to the Department of Education to insure that our program and plan within the state of New Hampshire meets the federal requirements. I urge you to pass HB 691 as amended for the benefit of the handicapped children of the state of New Hampshire.

Sen. SAGGIOTES: Do you have any idea at the hearing, was there testimony given the number of children that are handicapped that would be given assistance under this bill?

Sen. SANBORN: I don't remember the exact figure given for the state of New Hampshire, there are a 1,000 or more. For instance in looking, in the state of New Hampshire, we are further advanced than many children, we do look into the problem and try to cover the problem of the handicapped children. We have passed some good legislation here in the past but the only thing that this bill will do is bring us in conformity with the public law.

Sen. SAGGIOTES: Would this involve the state's share or match to the federal monies?

Sen. SANBORN: There will be required a state match at present to fund this in full or both state and at the local level. As we were given to understand in Boston at the last workshop down there, this is a difference in a federal grant of many where it started at the top and worked slowly down to zero. This one tends to start at about \$40.00 per child and then work up to about 80%. As we identify more of our handicapped children in this state and get into the program to its fullest extent at the local and state level then we are entitled to more and more federal funds.

Sen. SAGGIOTES: If there is as you state a federal-New Hampshire match for this do you have any idea what the percentage is?

Sen. SANBORN: It is around 30/70, and we have to put up the 70 at the state and local level.

Sen. SAGGIOTES: Is this the amount of money to be provided by the state as its match in the operating budget?

Sen. SANBORN: I would have to check with Senator Trowbridge—it seems to me like a \$1,700,000 for each year of the biennium of this present budget.

Sen. MONIER: Senator Sanborn, it is most unpopular to ask questions about any bill that would assist our handicapped children but I am afraid that I must ask a couple of questions. I would ask that the record show that I am not against the bill. Am I not correct that the mandation from the federal government was in the form of what I would like to call a threat in that if we did not conform to what the federal regulations state with respect to discrimination in regards to handicapped children, that we would lose monies supporting other educational programs.

Sen. SANBORN: In fact we could lose all federal funds.

Sen. MONIER: However along with that threat is it not true that the federal government at the present time has not funded that requirement to the state?

Sen. SANBORN: No it has not.

Sen. MONIER: So we are being told by benevolent Washington that we will accommodate to this requirement of non-discrimination with respect to handicapped children or we will lose our federal funding for other educational programs while at the same time they are not funding this requirement to us?

Sen. SANBORN: A while back ago I saw in the paper

where they anticipated we would be getting about \$1,000,000 or so in this area. I don't know that we have actually received that money. All I can go by is what I have seen in the paper.

Sen. MONIER: At this particular time the best thing the Department of Education would give me that this imposes a cost of approximately \$1,800 per school district per child with approximately 300 children who are not now being served coming in under this program. And unless my mathematics are wrong that is a cost of about \$540,000. Does that sound somewhat reasonable?

Sen. SANBORN: That sounds reasonable.

Sen. MONIER: At this present time the federal government is providing and do you have any idea how much, for this kind of handicapped children in education?

Sen. SANBORN: I don't know.

Sen. MONIER: Would you believe zilch?

Sen. SANBORN: I would believe zilch.

Sen. MONIER: In terms of the mandation of it, not in terms of the support to special programs.

Sen. SANBORN: At the workshop there was considerable discussion and all the New England states were present, about right off of the top that would be allotted each state for administrative purposes and every state agreed that the \$2-\$4000,000 off the top for administrative purposes was insufficient. They hope to have that all squared away and soon. And you know how Uncle Sam works on soon.

Sen. MONIER: Would you believe that I am going to support this bill Senator, but I just want it on the record that once again we have been mandated to fund a program by the federal government under threat that we would lose monies from all other programs for this while at the same time their regulations state as follows: that the federal funding may be available in part and over a period of years."

Amendment adopted. Ordered to third reading.

Senator Monier recorded in favor of the bill with the protest of the Federal Mandate without funding.

HB 894, providing opportunity in public education without discrimination. Ought to pass with amendment. Senator Sanborn for the committee.

Amendment to HB 894

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Prohibit Discrimination in Public Education. Amend RSA 186:11 by inserting after paragraph XXXII the following new paragraph:

XXXIII. Discrimination. Insure that there shall be no unlawful discrimination in any public school against any person on the basis of sex, race, creed, color, marital status or national origin in educational programs, and that there shall be no denial to any person on the basis of sex, race, creed, color, marital status or national origin of the benefits of educational programs or activities.

2 Effective Date. This act shall take effect 60 days after its passage.

Sen. SANBORN: If you look at page 22 in your calendar, about the center of the page, that is now the bill. The amendment strikes out everything in the bill as it was received by us and replaces it with the single paragraph that you see there. Under RSA 186:11, at present there are some 32 different paragraphs there saying what the duties and responsibilities of the State Board of Education is, all the amendment does is add one more section and says that the State Board of Education will be responsible to see that there is no discrimination in the schools of the state of New Hampshire, shall be no denial to any person on the basis of sex, creed, color, marital status or national origin in education programs. That is all it says. The original bill that came from the House wanted us to get the civil rights commission, some other commission get into this and go and prod the school districts that they were discriminating. Our personal feelings are that this is a state board of education responsibility. We don't need other people there are plenty of people on the school boards now, PTA's and every other organization giving them a hard time, why do we need another one. Let the State Board of Education face up to their responsibility and see to it that there is no discrimination in our schools and in our activities of the schools. That's all the amendment does.

Amendment adopted. Ordered to third reading.
(Senator Sanborn in the chair.)

SUSPENSION OF RULES

Senator Bergeron moved to suspend the rules of the Senate so far as to allow that the Senate take up a special order on HB 408 previously scheduled for Tuesday, May 31.

Adopted.

HB 408, authorizing savings banks to lend investment securities. Question of Senator Poulsen's amendment.

Amendment to HB 408

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

authorizing savings banks to lend investment securities and to make prudent investments otherwise prohibited by certain sections of RSA 387.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Prudent Investments. Amend RSA 387:18 (supp) as amended by striking out said section and inserting in place thereof the following:

387:18 Prudent Investments. Not exceeding 7½ percent of the time and savings deposits of a savings bank or banking and trust company may be invested, subject to the limitations expressed in RSA 387:3 in securities which are not authorized investments under RSA 387:6 thru 387:16, but which are prudent investments for such a bank to make, provided: (a) the bank making such investment shall have capital funds equal to at least 5 percent of its deposits; and (b) the securities being purchased under the authorization of this section do not, when added to all other securities then owned by the bank, the purchase of which would not then be authorized by the other sections of this chapter, exceed 7½ percent of its deposits.

3 Effective Date. This act shall take effect 60 days after its passage.

Sen. POULSEN: This is a little different procedure than I knew about, it is done only by the larger banks, it is done with great safeguards built into the bill. It is a procedure where the banks loan securities to brokerage houses only accepted by the banking commissioner. There is a profit to be made to the banks, they still give the dividend from securities but the broker who is selling short uses the securities to protect his position and eventually comes back to the banks. It is a paper transaction and it is used by a few of the larger banks in the state.

Amendment adopted. Ordered to third reading.

HB 922, relative to property tax exemptions for real estate equipped with wind-powered energy systems. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This is enabling legislation to the subdivisions of the state. It has to go on a referendum and be approved by the people that they will become subject to 72:66 which will allow the governing bodies to set an exemption for wind-powered systems. Once that is set it has to be before the voters again of the town to be accepted. That is about the size of the bill. This is only on the wind-powered structure itself, not on the rest of the property.

Adopted. Ordered to third reading.

HB 308, relative to the employee discount utilized by electric utilities. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, this bill does exactly what the analysis says it does. It distributes the cost of discounted utility rates which are offered to employees to all customers of the utility company rather than just to the residential customers as is the case now. The committee heard this and most of the testimony was in favor and we would encourage the senate to adopt the committee report.

Adopted. Ordered to third reading.

HB 851, relative to the use of privately purchased telephones on the existing telephone system. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: If the Senate will look on page 1484 of the House Record, they will see the amendment which basically is the bill and the committee is unanimous in its approval of the bill as it passed the House. Basically this would allow private telephones to be used on the telephone company jacks. The jacks would belong to the telephone company but the phones would belong to the individuals. Also it would allow electronic answering devices that are registered with the FCC to be used and those that are not registered with the FCC would have to get special equipment from the telephone company. We think it would be a fair thing and we would encourage the Senate to adopt the report.

Adopted. Ordered to third reading.

HB 879, prohibiting telephone companies from charging a toll for any call placed to another phone within the geographical boundaries to a town. Referred to interim study of the legislative utility consumer council. Senator Jacobson for the committee.

Sen. JACOBSON: This bill has very far reaching implications with respect to the way in which a telephone company operates. What this bill intends to do is to make each town a unit of telephone operation. Presently there are many towns and it so happens quite by accident I guess, in my senatorial district there are more towns that have split telephone companies than any other district in the state. For example in the town of Sutton we have five different exchanges with three different telephone companies. If this bill were to pass it could raise questions of franchise, it would raise questions as to what would be the limitations of telephone companies, it was argued, for instance, in the state of Minnesota, they reduced some of their telephone companies and were able to bring together a single municipality under one telephone company. However in the state of Minnesota they have an entirely different situation because they have counties and counties are not contiguous to towns and what has happened is that sociologically in our state, certain areas of the towns have

grown more rapidly than other areas of the town. As a matter of fact, in many instances one part of the town is sociologically and economically more closely associated with another town. I take for example the area of east Sutton. East Sutton is much more closely related to Warner than it is to north Sutton or even Sutton Mills. The people go to church in Warner, the grocery store, they go to the physician and the telephone company as it developed, included east Sutton and Warner exchange, they both are in 456. So it is a very complex question. The north Sutton people are all tied to New London. Their physician, their bank, their interests are all in that direction, although they happen to be across the town line. In some respects almost the same as our problems with counties. So it was the considered opinion of the committee that all of the ramifications of what this would mean ought to be studied before we pass this legislation.

Sen. SMITH: Senator Jacobson I have great concern for this bill. In that I think that probably you may be right but I think that I have more towns with split telephones, toll calls and so forth within one town. I am concerned that this bill may just die a death. Now what assurance can you give me that if the bill is referred to the legislative consumer utility council, that some real positive action would be taken on this bill?

Sen. JACOBSON: I cannot guarantee you anything Senator and I wouldn't want to be in that position but it seemed to the committee that this is an area that is dealing with consumer material in fact, one of the lawyers for the consumer council I think is the junior member who was there testifying on the bill, Mr. Love. So given the integrity at least of the members of the council I would say that they would do their best efforts to see if this is in fact a viable solution.

Sen. SMITH: I understand that if you have to make a toll call to call the fire department in the town, that you can later, if the house is still standing, call and get a rebate on that toll call. My question goes deeper than that, what about a town library that has been trying to collect some books that have been out six months? Or to do its business within the town, how is that going to affect the town having a whole pile of telephone calls from the town library?

Sen. JACOBSON: That was the central issue that was raised with respect to this bill, was how fair. I would suggest to you that the uses of the telephone in terms of percentages

that that represents a very tiny percentage of the total usage factor in telephones.

Sen. SMITH: It may only be a very minor usage but is this not a fairly critical thing for those people who are deeply involved in it. I have five towns in my district where this problem exists. Would you say that this was minor as far as they are concerned.

Sen. JACOBSON: if you are talking about a personal concern obviously something that is minor in the total frame is major for that individual. I can't speak to that question but I am certain that there may be those individuals that consider that to be a major problem. The whole problem of legislation is that you have to take in the broader public perspective.

Sen. SMITH: I have 21 towns in my senatorial district and five of them have this same problem would you consider that minor?

Sen. JACOBSON: In relationship to the toll call factor with regards to telephoning the library, the selectmen, I would say yes—I have more towns than you have.

Sen. SMITH: Living in Plymouth, I can call Meredith which is 20 miles away without a toll call. I can call parts of New Hampton which is 10 miles away without a toll call. I can call the town of Bridgewater, half without toll call, the town of Hebrun which is 3 miles from me is a toll call. Now does this kind of charge system make much sense to you?

Sen. JACOBSON: Well Senator I have exactly the same kind of problem and I won't reiterate all the instances but the problem is that as these franchises have been developed and as populations have moved and have come together in various groups, these groups of people—take for example the people in north Sutton—if this bill were passed and you made so to speak one town, a telephone company, then the sixteen subscribers who live in north Sutton and are on the New London exchange would have to make toll calls if it were carried out to its logical conclusion or else you would have to have exchanges of franchises.

Sen. SMITH: In my instances which I mentioned in my district, would you believe me if I told you that all these phones were under the auspices of Ma Bell, no small, individual companies.

Sen. JACOBSON: I would believe anything you said Senator.

Sen. SMITH: With the advancement of technology as we

have today, don't you think Senator, that the telephone company could work this out without excessive costs?

Sen. JACOBSON: I am sure that if the problem is of such a nature that one company owns it and there are no other technical involvements, that they could probably work it out, have you contacted and asked them?

Sen. SMITH: A mastedon? Oh I misunderstood. This has been discussed and people in my district have contacted the telephone company and public utilities commission and they have also gone to the commission that Senator Rock is on.

Sen. BERGERON: I rise in support of the committee report. We have a typical situation in our area involving the town of Durham and Wolfboro and the problem here is a little more extensive than what Senator Smith seemed to indicate primarily due to the exchanges. The community of interest is now being served but what is happening here is that you are mandating additional charges for the purposes of information in our little town of New Durham, if we tie the exchange or the northeast-most section of the town into the town, there are no lines number 1. Number 2 if we mandate, tie these two exchanges together, what you are doing here is increasing each individual subscriber's telephone bill by \$3.75 per month. It is also interesting to note that a survey was conducted of this and the average call from the people in New Durham for example to the people of the town of Wolfboro, where the northeast section is on the exchange, is one call per month per customer. I don't think on the basis of these kinds of figures that we should mandate to the people in a town that they are going to pay an additional fee of \$3.75 per month. I think we should go along with the committee report.

Sen. ROCK: I rise briefly to say that if you do refer this to interim study and you want to be sure that it gets to the right organization, the Legislative Utility Consumer Council. I can assure you that it will receive study, the things that we have brought before the council have been acted upon thoroughly and while we cannot guarantee what the results will be we can guarantee that it will receive full attention.

Sen. SMITH: Senator we have heard all the figures bandied about—if you change the exchange that you are going to have anywhere from \$3.75 to a \$5.00 increase in your base rate. Now does it seem, you being the expert on this subject, does this seem like an independent study develop that cost or

would you think that was the figure given by the telephone company.

Sen. ROCK: The people I have talked with on this issue and I did do research before it came before the senate, because I knew that you might ask me that question. There are two sides to the coin. The small company that handles the exchange in Wilton for instance, if it were to do what this bill says, might well have to raise its rates to the extent indicated, but in the case that you propose, such as the entire area being served by New England Telephone, New Hampshire branch, I don't see that problem. That is why I think a study may resolve the issue.

Sen. MONIER: I would like to rise in support of the committee position. Senator Jacobson and Senator Smith have already indicated that their districts include these kinds of problem so does mine. I talked with the three telephone exchanges involved in it and talked with some consumers and I guess what I am upset about is this is entitled as a consumers bill and yet if you look at it I can't find one place in which by mandating, that tolls are non-toll in a town, you are going to assist the consumer in terms of money because of the very basic thing of by doing this you will do two things. You will cost them more because of the service that would be required to be put in and secondly because most people do not make telephone calls geographically within a town. They make it geographically to the population centers to which they happen to be oriented. Now there always a few who are not in that kind of a situation but the cost to those people on a monthly basis is less than \$2.00/month. The average and I might add they were not provided by the telephone company, are approximately \$3.50 increase. That is not a consumer bill in my mind. And I think that this word consumer bill is used as a kind of a nice exploding blanket to cover a lot of things and it is really not assisting the consumer at all.

Sen. BOSSIE: So the occasion will not pass without somebody stating that the purpose of the bill is good—I would like to say it. I don't know whether it is consumer oriented or not but I do know that a number of towns have a problem. Some towns have four different exchanges within one town. It is rather incredible that you have to pay 30¢ to call a mile. This is a problem that has happened over the years to the various little telephone companies having this problem. It is one heck of a job to scramble it out. If we had time we would like to do

it this year. I think President Jacobson hit it on the head when he said this thing needs time. Apparently the PUC is having a study done themselves now to determine just how we could do it so the consumer would get the most out of their telephone dollar in the state of New Hampshire. I have no objection to the committee report and I think it is a good suggestion to study it further. I just wanted these comments to be part of the record.

Sen. BERGERON: Senator Bossie are you aware that there is now a proposal being made for a reduction for some 40% in telephone charge, that you can call extended area bases within a radius of 22 miles.

Sen. BOSSIE: The testimony at the hearing was that a number of times the various telephone companies solicit of their customers, an election to determine whether they want to do this for a larger area and sometimes it goes one way and sometimes it goes the other. These are things that are very complicated and the tariff structure for telephones is one of the most complicated that I have ever seen.

Sen. SMITH: Just briefly, Mr. President, I reluctantly rise in support of the motion recognizing the fact that the power bloc is all there to put this into interim study committee. However with the assurances that Senator Rock has given that this piece of legislation will be given full consideration and that an attempt will be made to rectify the problem I will go along with the committee report.

Adopted.

(Senator Foley recorded in opposition.)

Special Order 3:01

HB 790, relative to cancer drug therapy.

Senator Rock moved that HB 790 be made a special order for Tuesday, May 31 at 11:01 a.m.

Sen. ROCK: I would like to speak on two areas. The first is that Senator Bradley had to leave, his wife was taken to the hospital and several Senators agreed to make it a motion for special order so Senator Bradley could be here, he had asked that it be made a special order so he could speak with the doctors at Dartmouth. I also think we did a very wise thing yesterday when we considered the special orders earlier in the

day. Under suspension of the rules we were able to accomplish that. I realize today that many Senators had hearings and were out of the room and couldn't be here at an earlier hour. All Senators being present, I think when we make or issue a special order it is because it has a special problem with it or the debate may be far reaching. And when we have it as the last order of business on a day like today with the heat and the problems, everybody is in a pretty bad mood and we don't all get the thing done the way we should. So maybe we could consider some of these special orders once we have made the date and time, suspend the rules and have them earlier, provided all the senators are here. I hope you will adopt the motion so that we can have it a special order on Tuesday.

Adopted.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

Senator Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 469, 690, 356, 387, 573, 600, 579, 1191 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 469, increasing the minimum age for purchase, sale and consumption of alcoholic beverages to 19 years. To Judiciary.

HB 690, revising RSA 483-A relative to dredge and fill providing greater local participation in the decision-making, allowing towns and cities to designate prime wetlands, sets forth a filing fee, repealing RSA 431 relative to swamplands; and modifying the composition of wetlands boards. To Environment.

HB 356, to reclassify certain sections of highways in the town of Merrimack; to provide town authorization to appropriate town funds for their improvement, and for the construction of a new interchange and collector roadways on the central New Hampshire turnpike in the town of Merrimack and

the relocation of the toll plaza and making an appropriation therefor. To Transportation.

HB 387, establishing the police standards and training council training fund to consist of penalty assessments imposed in certain criminal cases. To Administrative Affairs.

HB 573, providing for the acquisition of a certain dam and water rights by the water resources board and making an appropriation therefor. To Environment.

HB 600, relative to importation of dogs and cats into the state and the sale of same. To Executive Departments.

HB 579, amending the interest and dividends tax relative to the rate, method of distribution, and number of exemptions for the elderly or blind. To Ways and Means.

HB 1191, making appropriations for capital improvements. To Capital Budget.

VACATE

Senator Bergeron moved that HB 314 be vacated from the committee on Institutions to the committee on Insurance.

Division vote: 10 senators voted yea. 6 senators voted nay.
Adopted.

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, May 26 at 1:00 p.m.

Adopted.

Late Session Third Reading and Final Passage

HB 910, relative to double doors.

HB 282, placing a consumer on the commission of pharmacy and practical chemistry.

HB 1060, legalizing certain action taken by the town meeting in the town of Durham.

HB 702, relative to vicious dogs or dogs as a nuisance.

HB 555, creating a state historical records advisory board and making an appropriation therefor.

HB 1163, legalizing the 1977 annual town meeting of Exeter.

HB 355, regulating health maintenance organizations.

HB 227, relative to procedures for appointment and removal of deputy commissioner of safety.

HB 881, relative to recovery of local assistance.

HB 756, relative to acceptance of petitions by the planning board.

HB 754, granting authority to the commissioner of health and welfare to appoint acting directors of the divisions of the department.

HB 926, amending the town charter of Hanover allowing selectmen to establish one or more parking districts.

HB 388, relative to the monthly rate for the care, treatment, maintenance and training of any resident of the Laconia state school and training center.

HB 621, relative to the placement of children in licensed facilities.

HJR 4, for the purpose of requesting appropriate action by the Congress, acting by consent of $\frac{2}{3}$ of both Houses to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

HB 366, requiring results of second reading votes be included as part of questions proposing constitutional amendments.

HB 691, relative to a program for special education.

HB 894, providing opportunity in public education without discrimination.

HB 408, authorizing savings banks to lend investment securities and to make prudent investments otherwise prohibited by certain sections of RSA 387.

HB 922, relative to property tax exemptions for real estate equipped with wind-powered energy systems.

HB 308, relative to the employee discount utilized by electric utilities.

HB 851, relative to the use of privately purchased telephones on the existing telephone system.

Adopted.

Senator Bradley served notice of reconsideration of HB 1060.

Senator Bergeron moved to adjourn at 6:10 p.m.
Adopted.

Thursday, May 26

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

New every morning is the light which brings forth new beginnings, hopes, aspirations, sorrows and joys. May we have the faith to meet them and the spirit to accept whatsoever befalls us.

Help us Lord, so to live our lives. That they will not only be a comfort and joy to ourselves but also examples to those whom are looking for patterns to follow and to lead them out of the shadows and pitfalls which they have placed themselves.

May we in this senate never lose sight of who we are or what we are or of our duties thereof. Bless us Lord as we try to do the best we can amidst the uncertainties of each day which life has to offer.

Amen

Senator Brown led the Pledge of Allegiance.

HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE

Senator Provost moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills 419, 96, 502, 536, 609, 513, 249, 523, 244 shall be by this resolution read a first and second time by

the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 419, specifying procedures for the sale and fitting of hearing aids and requiring the registration of hearing aid dealers. To Public Institutions.

HB 96, increasing the appropriation for regional vocational education centers. To Education.

HB 502, making an appropriation for construction of a facility for the criminally insane on the grounds of the New Hampshire hospital. To Capital Budget.

HB 536, relating to the business profits tax rate, deductions and method of distribution. To Ways and Means.

HB 609, establishing public guardian offices. To Judiciary.

HB 513, creating an office of youth services and an advisory commission on youth and making an appropriation therefor. To Executive Departments.

HB 249, relative to personnel of certain agencies which receive federal grants-in-aid. To Finance.

HB 523, authorizing payment to Merrimack county for services rendered and making an appropriation therefor. To Finance.

HB 244, relative to compensation of deputy registers of probate. To Finance.

ENROLLED BILLS AMENDMENTS

HB 740, relative to the use of emergency lights. Senator Bergeron for the committee.

Enrolled Amendment to HB 740

Amend section 1 of the bill by striking out line 2 and inserting in place thereof the following:

as amended by inserting in line 4 after the words "departments, fire departments," the

Sen. BERGERON: This amendment corrects an ambiguity in the amending language of section 1 of the bill.

Amendment adopted.

HB 305, reclassifying certain positions at Laconia State School. Senator Bergeron for the committee.

Enrolled Amendment to HB 305

Amend section 2 of the bill by striking out line 6 and inserting in place thereof the following:

positions created by RSA 126-A:30-a, II as inserted by section 1 of this act.

Sen. BERGERON: This amendment corrects a citation error in section 2.

Amendment adopted.

HOUSE CONCURS IN SENATE AMENDMENT

HB 152, relative to annual property inventory forms.

Senator Blaisdell served notice on HB 227.

COMMITTEE REPORTS

HB 859, relative to prohibited collateral under the small loans law. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: This bill only affects the small loan companies and it affects the collateral that can be used, instead of \$1,000 it is \$2,000 of household furnishings that become exempt from collateral liens. It will not affect installment buying, it has nothing to do with that process, only on small loans.

Adopted. Ordered to third reading.

HB 688, relative to trust company director's stock holdings. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: This bill has to do with the law that requires the director of a bank to own at least a \$1,000 worth of stock in the bank, which law was put in so that he would be

protecting his own interests as well as those of others and this bill changes it so that the directors of a bank owned by a holding company, can own instead stock in the holding company. The effect would be the same but it gives them a little more leeway.

Adopted. Ordered to third reading.

HB 947, relative to guaranty funds of building and loan associations. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: This bill makes it a little bit easier for the money a bank has to deposit as their capital increases the reserve fund, instead of having to do it at that particular time when it arises, they can do it once a year or at will as the magic number approaches. It is a bookkeeping type thing it doesn't really make any difference. Most banks do it when the amount rises. This does give them the chance to wait till the end of their fiscal year to do it if they would rather.

Adopted. Ordered to third reading.

HB 951, relative to the removal of absent town budget committee members. Ought to pass. Senator Brown for the committee.

Sen. BROWN: Apparently Mr. President, they had trouble when these members were appointed by the moderator, the selectman. They are not attending hearings and there is a lot of absenteeism. So to try and rectify this this bill states that if they miss four consecutively scheduled meetings then they shall be replaced and the job of replacing them will be done by the moderator.

Adopted. Ordered to third reading.

HB 1054, relative to the distribution of legislative budget post audit reports. Ought to pass. Senator Brown for the committee.

Sen. BROWN: As you know the post audits are made up by the LBA and according to present statutes the method of

distribution and who they shall go to is already in the present statute. What this bill does is ask that the distribution will include the presiding officer of the House and the Senate, so that he can distribute them to the appropriate committees.

Adopted. Ordered to third reading.

INTRODUCTION OF GUESTS

HB 780, relative to certifications required of town and city officials on reports and assurances to state agencies. Ought to pass. Senator Brown for the committee.

Sen. BROWN: At the present time the town governing bodies have to send reports to state agencies. They have to sign it is a true copy and in most cases the information they receive and what they are signing is second hand, they don't know it directly. He'll sign it with this wording, the information submitted on this form is a true and accurate statement to the best of my personal knowledge and belief based on the knowledge available to me at the time entered hereon. No information is known to me to exist which leads me to believe or suspect otherwise. Presently they say it is a true copy. This says it is true based on these conditions.

Adopted. Ordered to third reading.

HB 1148, relative to state public assistance programs. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: It came in from the house, it seems to be a situation whereupon the state public assistance program as to how they go about and doing it, no one appeared in opposition to it whatsoever, quite a few folks were there saying what they wanted and how they wanted it to be done. The Division of Welfare was there and were happy with the way the amendment had come in from the House, coming into us and Aid for The Family and Dependent Children, is all spelled out the way they want it. I recommend its passage.

Adopted. Ordered to third reading.

HB 199, relative to the licensure of occupational therapists. Ought to pass. Senator Provost for the committee.

Sen. PROVOST; Mr. President, members of the Senate, HB 199 is a bill that establishes licensing requirement for an occupational therapist on the board of registry of medicine. The bill also establishes an advisory committee to be appointed by the board. To obtain a license, a person has to have a bachelor degree. It was a very well attended meeting. Everyone but one person was for the bill. The committee recommended it ought to pass.

Adopted. Ordered to third reading.

HB 89, relative to the licensing process and license fees for hospitals and medical institutions or facilities. Ought to pass with amendment. Senator McLaughlin for the committee.

Amendment to HB 89

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Application for License. Amend RSA 151:4, I (supp) as amended by striking out said paragraph and inserting in place thereof the following:

I. Applicants for license shall file applications under oath with department of health and welfare, division of public health services, upon forms prescribed and shall pay the license fee annually into the state treasury, or it shall be refunded to the applicant if the license is denied. Institutions operated by any unit or division of federal, state or local government, non-profit home health agencies, non-profit visiting nurses associations and laboratories located in hospitals and operated under the supervision of the hospitals shall not be required to pay the license fee.

Sen. McLAUGHLIN: Mr. President, the amendment starts on the bottom of page 17 and continues on to page 18. This amendment was an agreed amendment to all people concerned. What the amendment actually does is it takes the last sentence, "Institutions operated by any unit or division of federal, state or local government, non-profit home health

agencies," are exempt. It should have been there in the first place but they overlooked it when they made some changes in the house. They asked that we put it in and both sides agreed and that is the actual amendment.

Amendment adopted. Ordered to third reading.

HB 969, establishing a bureau of community living in the office of the director of the division of mental health. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: This bill was requested by the Division of Mental Health. This bill eliminates the Bureau of Family Care and establishes the Bureau of Community Living. It is really a title change and in essence what it is saying here is that the same people will be controlling it that were before. There is no additional staffing whatsoever, that is spelled out in the bill. It is not going to cost any more money. We went through that very carefully, they were not putting any more people on. We found no problem with this bill whatsoever and no one was there to oppose it.

Division vote: 11 senators voted yea. 3 senators voted nay.
Adopted. Ordered to third reading.

HB 938, allowing permits for child care facilities. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: This bill permits the division to give a permit for newly established facilities for child care to allow the reasonable time to become eligible for full license. All this is doing is giving somebody starting off to give them six months to complete the necessary arrangements and they can function in the meantime. We see nothing wrong with the bill whatsoever.

Adopted. Ordered to third reading.

HB 1047, relative to overtime pay for employees of nursing homes. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: This bill changes the formula for requiring all overtime payment for all work in excess of 40 hours in any one week. Anybody working in the nursing home will get paid overtime after working 40 hours in one week. It is a simple bill, we recommend its passage.

Adopted. Ordered to third reading.

HB 1029, adding exceptions to the licensing of child caring and child placing agencies. Ought to pass. Senator McLaughlin for the committee.

Sen. McLAUGHLIN: This bill is going to clarify a position for department of health and welfare because people have been coming here for for fresh air and vacation and so forth and by rights they should be licensed homes. This bill exempts family housing exchange students and families caring for fresh air children, and non-resident vacationing families, caring for foster children in their homes. Any child that comes here from foster homes for vacation and as long as they have permission from the supervisor of the state they come from they don't want any problem with the licensure of the homes for the short period of time that they are here.

Adopted. Ordered to third reading.

HB 682, relative to the motor vehicles collections by town clerk or other municipal official and providing for the removal of a town clerk for cause. Ought to pass. Senator Monier for the committee.

Sen. MONIER: This bill is in for a particular purpose, both of the things all the people who appeared before the committee supported. The first thing it requires is that the town clerk or the city official turn in all motor vehicle permit fees when they are \$500.00 or more on a weekly basis. This is primarily because at the present time it has been reported to the Department of Revenue Administration Mr. LaPlante and etc., and it has been substantiated by testimony in front of the committee. There is too much of an opportunity and there have been some cases of this in the past where this opportunity of the money has been used in illegal fashion. As a result

of that this bill is for that purpose and the committee was unanimous.

Adopted. Ordered to third reading.

HB 1159, authorizing towns by local referendum to acquire and dispose of industrial facilities. Ought to pass. Senator Monier for the committee.

Sen. MONIER: This bill deals with the authorization by towns of local referendum once again the town must vote to acquire and dispose of industrial facilities. In this particular case this bill was to permit a town which was a governmental unit, acting directly or by voluntarily or non-profit, to acquire, develop and lease industrial facilities. The problem that came up on it is that there are industrial parks in the various towns. When something happens to these or there is a foreclosure or there is a tax sale or there is an abandonment. The town has no legal right by which they may take over and acquire the land and no way by which they may do anything with it to dispose of it. This bill is in here for that particular purpose and it requires a local referendum to accomplish this by a vote of the town meeting or the town council and so forth.

Sen. SANBORN: Senator I was interested in the last part of your statement. Did you say that the town has no legal way to take this problem property?

Sen. MONIER: No. I did not mean they did not have a legal way to take it—I may have said that. They have no way by which except to acquire and to dispose of an industrial facility, which is under a bond and so forth. They always have the tax lien if that is what you mean. It is a little more complex than what I said. How to dispose of it and asking the townspeople for a vote that they agree that is the way it is supposed to be done.

Adopted. Ordered to third reading.

HB 1031, to allow local units of government to enter local agreements for the performance of any legal functions. Ought to pass. Senator Monier for the committee.

Sen. MONIER: This is an extension of the capability of the towns to enter into interim local agreements between towns

and it adds to the list that is currently on and in effect as to what may be done with regards to this; it provides for agreements between governmental units; it increases the number of functions that are currently in the statute that may be entered into an inter-local agreement.

Adopted. Ordered to third reading.

HB 1050, establishing a committee to study legislation affecting municipalities. Inexpedient to legislate. Senator Monier for the committee.

Sen. MONIER: I thought you people would be interested in this bill. In the six years that I have been in the legislature I have never seen one quite like it. It establishes a committee to study the laws relating to municipalities. That is fine. Consisting of 9 members of the house, municipal and county government and city. And no one else. The committee heard this quite extensively, the argument was quite persuasive and then we killed the bill. And I suggest you do the same. My argument is very simple. If they don't know that then we will send them over a House Resolution and show them how to do it.

Adopted.

HB 711, eliminating the requirement that town clerks send reports to certain state societies. Ought to pass. Senator Monier for the committee.

Sen. MONIER: This bill eliminates a requirement that town clerks send reports to the New Hampshire Historical Society and the New Hampshire Genealogical Society. I don't know why we are worry about these things but they were in the bill, the Genealogical Society no longer exists.

Adopted. Ordered to third reading.

HB 900, authorizing cities and towns to discontinue public highways subject to existing utility easements. Ought to pass. Senator Monier for the committee.

Adopted. Ordered to third reading.

HB 1015, relative to the liability of veterinary board and engineers board. Ought to pass. Senator Monier for the committee.

Sen. MONIER: We have been passing along through the section and this is an additional one protecting professional boards commissions and etc., from personal liability or damages for acts done in good faith as a member of those boards. This particular one given by Representative Frizzell adds two professional boards, a veterinary and engineers, so the list of engineers so the members of organizations are protected from liability for damages, for acts done in good faith as a member of that board. This is a proper activity along with our municipal sovereignty.

Adopted. Ordered to third reading.

HB 717, relative to loan pay-back requirements for resident veterinary medical students. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill is relative to the loan-payback requirements. It reduces the pay-back requirements for veterinary-medical students. They initiate the payment back to the state starting within two years after they graduate and have up to a period of twelve years or three times the number of school years to pay it back. There is a forgiveness clause in this bill that the comptroller may, in the case of hardship, death or extenuating circumstances, with the approval of governor and council to extend or forgive the repayment of the account.

Adopted. Ordered to third reading.

HB 961, relative to the legitimization of children born out of wedlock. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: This bill is quite accurately described. It permits a father of an illegitimate child to petition the superior court to be declared the father and to make the child legitimate. Usually the situation is the other way around—

someone is trying to affix paternity to someone who doesn't agree to it. But apparently there is no provision in the law for someone who wants to be declared the father and make the child legitimate. This bill would allow it to be done with notice to the mother and under the findings of the court that it is accurate and in the interests of the child. There was no controversy on the bill in the hearing.

Adopted. Ordered to third reading.

HB 936, relative to the good samaritan law. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: At the present time, in order to be protected from civil suit under the good samaritan law one must not receive compensation. A problem has come with specially trained rescue workers or ambulance workers who might come upon an emergency situation when they are not actually at their work. They feel they cannot stop and aid because they may be compensated by their town or municipality. So HB 963 simply inserts one word between no compensation, "no direct compensation", meaning from the injured party and that would clarify that situation.

Sen. BLAISDELL: Is there any talk in the committee about extending this to volunteer municipal ambulance services?

Sen. KEENEY: It is the intent that does extend in fact it was such a service that requested the legislation.

Adopted. Ordered to third reading.

HB 776, relative to the definition of a person beneficially interested in an account filed in probate court. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: This is another fairly simple bill that was not controversial. It simply expands the definition of what is meant by a person beneficially interested in a probate account as to who needs to get notice. It expands the definition by including the spouse of a ward and potential heirs of a ward, the ward himself or herself is already included, but this would add the spouse or the heirs of the ward.

Senator Bossie moved to lay HB 776 on the table.
Adopted.

HB 649, relative to prostitution and related offenses. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: Despite the juicy title this is only house-keeping. The present law on prostitution uses the terms sexual intercourse and deviant sexual relations. Those words were word definitions in a statute that got repealed. The statute that has been added to the books uses the term "sexual penetration and contact" and those are the current statutory terms as defined and so this simply uses the present terminology.

Sen. SANBORN: Was this taken from auction shows, you being an old Navy man?

Sen. MONIER: Any problem in defining that as lewd and lascivious?

Adopted. Ordered to third reading.

HB 817, relative to privileged communications between religious leaders and penitents. Ought to pass. Senator Bradley for the committee.

Sen. BRADLEY: As probably most of you know, the communications between an attorney and a client have historically been privileged, that means that they cannot be forced to disclose in a court of law. Since that was the original privileged communication by statute our state has granted another privileged instances, I think now between psychiatrists and their patients, psychologists and their patients. The ministers and religious leaders have in the past, several times asked for the same privilege, that is their communications with the penitent if you will, should likewise be privileged, you could not subpoena a priest into court and require the priest to disclose what may have been confessed to him by someone in the confessional. I was a sponsor of a similar bill, once in the past, and agreed to work on it and I was surprised to find it coming to us from the house. It passed the house and I can't say if it was controversial in the hearing because I wasn't there. I don't think there was any opposition in the hearing.

Sen. BOSSIE: It is my understand that a group of residents of an uptown New York area were ordained recently to the ministry and they received their training by sending \$2.00 to some mail order place out in California in order to avoid the tax laws, the internal revenue service last week, last time I heard, have agreed that they are ministers for all intents and purposes and shall be allowed exemptions for pastoral cottages and things of that nature. Are we going to allow these quacks who pretend to be religious leaders and who are not trained in becoming a part of the ministry of their various churches to have this exemption as we are those who profess with a regular religion?

Sen. BRADLEY: I guess that would be up to the court in any issue where this question came up where someone was trying to acquire a religious leader to testify. If a religious leader claimed the privilege, I suppose the presiding judge would have to decide whether or not the religious leader is someone we intended by this legislation to protect. I think we ought to say for the purpose of legislative history that we intend to protect only those people who are recognized religious sects and denominations.

Sen. BOSSIE: Dr. Moon of the moonies, that is a regular religion that these moonies belong to. If this passes the moonies in New Hampshire not only will have a tax exemption but they will be free from testifying in any matter that may pertain from some of their religious and some of their parishioners. Now this is a mixture I understand of political religious, socio-economic group and I guess I am not prepared at this time to extend any privilege to them. Would you have any response.

Sen. BRADLEY: I can understand your feeling that way.

Senator Bossie moved that HB 817 be indefinitely postponed.

Sen. BOSSIE: I apologize to the Chairman of the committee for not being there but I couldn't be there for the full hearing on this because of other bills but I was very concerned when I saw this. Not so much so with the organized religions, because frankly I don't recall a case in New Hampshire in the past several years in which members of the clergy have been required to disclose what their penitents have to say in confession or whatever other arrangement their particular reli-

gion has. But I am very concerned as to the significance of this with regards to the two questions that I pose to Senator Bradley. Now we have people that will do anything for money. They will become ordained ministers of various sects. What they do is send \$2.00 in to become a minister and all they have to do to qualify with IRS is have a regular group of parishioners and what they do in upstate New York is travel from one house to another to be part of a little ceremony to get them past their tax problems. Now we have a special problem with the moonies. This believe me is no central religion, the fact is you have probably heard that the Vermont state Senate did a little investigation on them. I am not really overly concerned with their activities in New Hampshire because I don't think there are that many around here. I am just not prepared to permit one of these people who receive their \$2.00 certificate and profess themselves to be a minister, to be exempt from testifying before any court of law in this state because of the fact that their activities are such that they are not restricted to religion. They are into all sorts of things. It has been shown in other states that they are into the brainwashing kick with a lot of the young people. For these reasons I think this bill goes too far and the only way to do it is to limit it and if you limit it to certain religions that is just as clearly unfair and unconstitutional, we want to be fair to all but if you are going to be fair to all we are going to have the fringe in there that are going to take advantage of it. These are the ones that we want to keep out. We should send this to the place it belongs and that is indefinitely postponed.

Senator Keeney moved that HB 817 be recommitted to the committee on Judiciary.

Sen. KEENEY: Unfortunately during the hearings yesterday, this was one of the bills as I recall, the total committee I don't think was ever there together at one time and I think some of the members did not hear testimony on this. Also, during the executive session on the bill another committee member who is not in the hall today, was very firmly in agreement with this bill. I think the Judiciary Committee should talk it over again.

Sen. BRADLEY: I rise in support of Senator Keeney's motion. As I recall the bill which was in in an earlier year, was a little more carefully and finely drafted. I believe it might be

worth while and have a look and see if we can't come up with something which might meet Senator Bossie's objections a little better although that may be difficult. I think we might be able to come up with a more finely tuned bill.

Adopted.

HB 993, relative to the regulation of the sale of variable contracts. Ought to pass. Senator Bossie for the committee.

Sen. BOSSIE: It is enabling legislation to allow the insurance commissioner to give approval to various insurance companies to sell variable annuities in the state of New Hampshire. As you have probably heard a variable annuity is a form of insurance in which rather than having specific amounts coming back it is variable depending on a number of things. This is in effect in just about every other state and frankly when the bill came in that I was shocked that such a system does not operate in New Hampshire. Because as we know in planning estates this is a very frequently used mechanism. Also in many states in insurance when say a death occurs and there is a sum due that the beneficiary frequently takes their amounts in annuity form, and so the insurance commissioner agrees to this, he favors it strongly, there was nobody that opposed it, it is a complex sort of thing but it is all under the auspices of the insurance commissioner and we could see no reason why it should not be passed at this time.

Sen. BERGERON: Senator in that bill are there any provisions—there was talk at one point where verbal contracts could not be sold for example to state employees, teachers, that kind of thing—any provisions in that bill to take care of this?

Sen. BOSSIE: Not to my knowledge. In the testimony that we heard I did not hear anything to that nature. I don't think there is anything controversial in this bill at all.

Senator Bergeron moved to lay HB 993 on the table.
Adopted.

HB 541, establishing a Livermore Falls Gorge study commission and making an appropriation therefor. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill establishes a Livermore Falls Gorge study commission and with it is an appropriation for \$500.00. This particular area is the old location of an old paper mill on Route 3 in the Campton area and is of scenic value. The bill establishes a commission to establish the feasibility of obtaining the property. The 11-member commission will make the study and come back to the General Court and make recommendations by December 1, 1977.

Sen. SANBORN: Who composes the commission?

Sen. PRESTON: 12 senate members from the commission of DRED, 1 member Division of Parks and Recreation, a member of Historical Preservation Society, a member of the Senate who shall be serving from that particular district, a member of the house and two members each from Plymouth, Campton and Holderness, designated by the respective boards of selectmen and a member of the general public designated by Governor Thomson and Council.

SUSPENSION OF RULES

Senator Trowbridge moved to suspend the rules of the Senate so far as to allow that Rule No. 24 be waived in respect to HB 541.

Adopted.

Motion of ought to pass.

Adopted. Ordered to third reading.

HB 517, providing for the acquisition of a tract of land to be known as the Pine River state forest and making an appropriation therefor. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill would provide for a tract of land to be known as the Pine River state forest and there has been an appropriation of some \$462,000 in state funds. It would bring in \$12,500 in federal funds and appropriate \$50,000 for the incidental costs of land acquisition. Now perhaps you recall but just in the past month I stood up and opposed as chairman of that committee the sum of some \$200,000 each fiscal year for the acquisition of land by the fish and game. This particular parcel is 3300 acres of land in the Ossipee-Eppingham area. It is a single owner, owned by one corpora-

tion and the purchase price to the state would be an estimated \$125 per acre. It is considered by all that spoke before the committee as a high priority item, one of the few tracts singularly owned that wouldn't be a high cost acquisition and the owners have agreed to this price as a result of an appraisal by the federal department in arriving at a figure that was perhaps \$300,000 less than the asking price by the owner. The Fish and Game indicated that this is one of the better trout fishing areas, excellent for canoeing, there would be no commercial campgrounds in the site, it would be open for overnight camping, hunting, snowmobiling and the tax losses to the communities would be about \$800 in Eppingham and approximately \$1-1200 in Ossipee. It appears to be good business judgment at this time to acquire this land and I urge you to pass it.

Sen. SANBORN: I think that this would be, if this was bought, under the department of DRED and not Fish and Game. I didn't get those prices you quoted on the land and I took it to be federal government funds.

Sen. PRESTON: The purchase price is \$825,000. The state cost would be \$462,000, \$412,500 for federal funds, \$50,000 for acquisition costs.

Sen. SANBORN: How much did you say it was per acre?

Sen. PRESTON: But actually the actual cost is about \$252 per acre.

Sen. PRESTON: I meant to imply the cost to the state Senator.

Sen. POULSEN: I wish to rise in strong support of this bill, I think it is an excellent purchase for the state of New Hampshire. It is partly in my district and I have had much input from the local selectmen and the people and they are all in favor of it.

Sen. SANBORN: Senator Preston there was an \$800-\$1200 fee in there or something I didn't quite get it—

Sen. PRESTON: The loss in tax revenue to Eppingham would be \$800 and \$1,000 to \$1,200 to Ossipee.

Sen. SANBORN: Which brings to mind a further question. Is there anything in the bill or shall we anticipate a further bill at another session that these two towns are going to request allocation of funds in lieu of taxes for this property?

Sen. PRESTON: I would say not Senator, based on Representative Allen and Representative Kelleher's testimony, They strongly supported this use, they were concerned about

infringement of commercial campgrounds coming into the area—some of the high area has 5,000,000 yards of bank run gravel and they were just concerned that that might be used for fill. If you recall they were running some trains out of the Ossipee area and completely depleted an area to bring fill into Massachusetts I think it was. They are in accord with it, they endorse this bill and I would not expect anyone to be in for compensation.

Sen. SANBORN: The only one I would have doubts on would be Representative Allan having a bill in here next session for about \$2-\$3,000 to reimburse those two towns, the other representative I would trust.

Referred to Finance under Rule No. 24.

HB 342, relative to deputy conservation officers. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: This bill is relative to allowing the director of the department of fish and game to establish a deputy conservation force. This would be essentially made up of retired conservation officers, superintendents of fish hatcheries, hatcheries foremen, it extends the arm of the fish and game conservation officers. There is no appropriation for these people whatsoever. However, if in the line of duty they are injured they would be eligible for workmen's compensation benefits.

Adopted. Ordered to third reading.

HB 505, relative to parking facilities at Hampton Beach and making an appropriation therefor. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: In an effort to help Senator Trowbridge chairman of the finance committee, help resolve the financial problems of the state, Hampton Beach has a bill here to make an appropriation for new parking meters. Essentially this bill is to appropriate a sum of \$70,000 to replace the parking meters now in existence on the beach area. They are closed-type face meter, they don't indicate the time. The estimated revenue down there now is \$60,000-\$70,000 per year. It is

estimated that these new meters which will be 25c meters essentially will bring in another \$70,000.

Sen. ROCK: Senator did I understand you to say the new meters are the kind that you can't tell whether you are expired or not?

Sen. PRESTON: Which kind do you like the best Senator? The meters in existence are those that have no clock on them. We have a lot of Canadian visitors as you know and they have never been able to read what is on those meters and there is no way visually or indicating what time is left or anything. The new meters would be the block type.

Sen. BLAISDELL: On these new meters, does this mean that the policemen who patrols this will not have to get off his bicycle like he does now and go and look down at the meter?

Sen. PRESTON: It means he can sit on his bicycle and write the tickets.

Sen. BLAISDELL: And this would save some money?

Sen. PRESTON: Yes, it takes time to write tickets.

Sen. PROVOST: Isn't it also true that instead of having in the parking lot they will have meters there instead of attendant?

Sen. PRESTON: That's true they will not pay an attendant they will have parking meters in the public lots on the beach.

Sen. SANBORN: Would you show me in the bill how the revenues derived from these meters will pay back the bond issue?

Sen. PRESTON: I think it is not part of the analysis but it is part of the DRED regulations that those monies derived from that will be used to pay not only the bonds for meters but the bonds for example where the band concerts are held at the pavilion, seawall improvements and so forth. I am sure that is written in on some previous piece of legislation.

Sen. SANBORN: The reason Senator that I ask this question is I notice in the appropriations bill that we are still trying to pay off the bonds from the last set of meters they have down there now. I would like to see the money going back and at least pay for the meters within the five years.

Sen. PRESTON: I am sure that is being done because we have never taken anything to the seacoast that we didn't more than pay back.

Sen. SANBORN: This so far, according to the appropriations bill 1000 and all preceding that is, that has been coming out of general funds, not out of any recreational funds.

Referred to Finance under rule No. 24.

HB 410, relative to the competency of persons applying for a hunting license for the first time. Ought to pass. Senator Healy for the committee.

Sen. HEALY: In reference to this bill it just lists requirements for competency to obtain a first hunting license in the state of New Hampshire. It requires satisfactory proof that an applicant has been a member of the armed forces for one thing, satisfactory proof that he has completed a hunter safety course for another, the bill amends the statute relative to liability insurance coverage for instructors and so forth. There is an appropriation of \$5,000 for fiscal year and that appropriation would come from the fish and game fund and this would be reduced by the amount of money from federal funds made available for purposes of this act.

The CHAIR: Is this money to be appropriated Senator Healy?

Sen. HEALY: This money will be appropriated but the sum is appropriated for the fiscal year ending 1978 and a similar sum for the fiscal year ending 1979 for the purposes of this act. Senate appropriations shall be charged against the fish and game fund. This is reduced by an allocation from federal funds from what I understand. In other words, actually it will not cost us anything.

Referred to Finance under rule No. 24.

VACATE

Senator Monier moved to vacate HB 249 from the committee on Finance to the committee on Executive Departments. Adopted.

(Senator Monier in the chair.)

HB 575, increasing the appropriation from \$6,000 to \$10,00 for a continuing boat tax fund administered by the department of revenue administration. Ought to pass. Senator Healy for the committee.

Sen. HEALY: This bill received the unanimous approval of the committee on recreation. It says that there is need for \$4,000 for the Department of Revenue Administration. It is running behind and this money is necessary for the continued operation in this particular field. According to our bill it says that the Governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated. The funds are to be kept apart as funds for the Department of Revenue Administration shall be used if the need may arise the next following and succeeding years to defer the costs of administration as long as the law remains in effect. Apparently, from what I understand, the department is running behind in money and really needs this \$4,000 to add to the \$6,000 to bring it up to \$10,000 for a continuing boat tax fund to be administered by the Department of Revenue Administration.

Sen. SANBORN: If they are falling behind why don't they ask Finance for a little larger sum, why do it this way?

Sen. HEALY: They are coming through this procedure which is the same procedure that they followed right along. They have gone to the Fish and Game Committee and this is a past procedure, and they have, from what was brought out at the hearing, was that they had some money and they would have additional money, but they do need this added \$4,000 to continue this program. I think this money will all come back to the state.

Sen. SANBORN: You don't mind if I doubt your last statement a little bit because if I am not mistaken anything on a boat tax is collected by the Department of Safety.

Sen. HEALY: You may be right Senator.

Sen. SANBORN: Those funds are allocated to maintaining and repairing the dams on our ponds in the state of New Hampshire.

Sen. HEALY: You may be correct Senator, that was not brought out.

Referred to Finance under Rule No. 24.

HB 497, relative to the distribution of dog license fees and making an appropriation therefor. Ought to pass with amendment. Senator Preston for the committee.

Senator Preston moved to lay HB 497 on the table.
Adopted.

HB 149, increasing fees for lobster, clam and oyster licenses, providing a penalty for misuse of lobster and clam license. Ought to pass with amendment. Senator Preston for the committee.

Amendment to HB 149

Amend section 5 of the bill by striking out same and inserting in place thereof the following:

5 Effective Date. This act shall take effect June 26, 1977.

Sen. PRESTON: This bill is an agreed upon bill between members of the commercial fishermen and those who have five traps or less. The present fee for commercial fishermen is \$25.00. The proposed increase under this bill is \$100.00. Those with five traps or less is \$10.00. Under this bill it would be raised to \$25.00. For people under 12 years of age it would go from \$4.50 to \$5.50 and from \$2.50 to \$3.50. This has been exposed to a lot of hearings in the house. It has been back and forth from appropriations and it has not been increased for many numbers of years. It also refers to licenses for the taking of clams or oysters and the amendment from the House is \$5.50 for each license for the adults and \$3.50 for the youngsters. The amendment that we are interested in today is to change it from effective 60 days after passage until June 26, 1977 to enable fish and game to get these new licensing fees into their computer system.

Amendment adopted. Ordered to third reading.

HB 207, relative to hunting with bow and arrow. Ought to pass with amendment. Senator Preston for the committee.

Amendment to HB 207

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Effective Date. This act shall take effect June 26, 1977.

Sen. SANBORN: I note down here in your synopsis and in your bill that it says a person may take one deer with a license for archery and one deer with a firearm. Why is it one of my constituents tells me that he hopes we pass this bill because he can get three deer in one year?

Sen. PRESTON: I am surprised that one of your constituents would even think that way. I don't know how he can do it.

Sen. SANBORN: Let me refer you to another section of the law that I believe says that with this you may take one under the bow and arrow, one with his regular rifle and I think if you look in the musket, they have the old muzzle loading musket, you can have a deer there.

Sen. PRESTON: I would say the muzzle loader would fall under the same category as the rifle.

Sen. SANBORN: I agree with you there but the only place that it says firearms is right here in this section. But you go in the other section relative to muskets and guns and it may say something else. Don't you think the committee should review this and insure all the sections relative to the taking of wild deer that agree with each other so we are not going to have a dispute out here relative to how those deer are taken.

Sen. PRESTON: I believe that was done. This was explained very clearly by fish and game as to what the intent of it was Senator. It was certainly not the intent of the legislation Senator.

Amendment adopted. Ordered to third reading.

HB 78, increasing the fees for hunting and fishing licenses; revising the fees for members of the armed forces; requiring an agents' special account for the period ending June 26, 1977, and making an appropriation therefor. Ought to pass with amendment. Senator Preston for the committee.

Amendment to HB 78

Amend RSA 208:5-a as inserted by section 8 of the bill by striking out same and inserting in place thereof the following:

208:5-a Muzzle-Loaders. A person who has complied with the licensing requirements relative to hunting deer pursuant to

RSA 214, upon payment of a fee of \$6.50 by residents or a fee of \$18.50 by nonresidents shall be issued a special license. Said special license shall entitle the holder to hunt deer with a single shot muzzle-loading firearm, of not less than .40 caliber, for a period of 10 days immediately prior to the opening date for the taking of deer as provided for by RSA 208:2. No other type of firearm may be used for the taking of deer during this period.

Sen. PRESTON: This is almost the entire all-encompassing of hunting and fishing bills. There is an amendment, we did change the license fee from the House version as they relate to the muzzle-loaders. It can over from the House a fee of \$10.50 for resident licenses, it had previously been \$3.50 and that is approximately 100% of an increase. We reduced that to \$6.50. The out-of-state fee was raised to \$22.50 and we cut it back to \$18.50 and the chairman and members of the house, fish and game committee, concur with that one change. This has been exposed to many hearings in the house. It is esimated that increased revenue should bring in \$250,000 to \$300,000.

Amendment adopted. Referred to Finance under rule No. 24.

HB 123, relating to the establishment of complementary facilities by banks. Ought to pass—Majority; Ought to pass with amendment—Minority.

Senator Poulsen for the majority. Senator Bossie for the Minority. Senator Poulsen moved that HB 123 be made a special order for Wednesday, June 1 at 11:01 a.m.

Adopted.

HB 643, relative to the qualifications for licensing of chiropractors. Split committee report—Ought to pass, Senator McLaughlin for the committee; Referred to interim study; Senator Saggiotes for the committee.

Senator Provost moved that HB 643 be made a special order for Wednesday, June 1 at 11:02 a.m.

Adopted.

Special Order 1:01

HB 804, conforming the New Hampshire clean air act to the requirements of the federal Environmental Protection Agency.

Question of inexpedient to legislate.

Senator Rock moved that HB 804 be made a special order for Tuesday, May 31 at 11:02 a.m.

Adopted.

Senator Hancock moved reconsideration on HB 1060.

Adopted.

HB 1060, legalizing certain action taken by the town meeting in the town of Durham.

Senator Bradley moved that HB 1060 be placed on second reading at the present time.

Senator Bradley moved an amendment to HB 1060.

Amendment to HB 1060

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

legalizing certain action taken by the town meeting in the town of Durham and certain action taken by the school district meeting in the city of Lebanon.

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Notice and Hearing Effective. Notwithstanding the provisions of RSA 33:8-a, the notice of hearing and hearing held on May 23, 1977 on a bond issue for the school district of the city of Lebanon shall be deemed effective, and are hereby legalized, ratified and confirmed in all respects.

4 Effective Date. This act shall take effect upon its passage.

Sen. BRADLEY: All this is about is a legalization bill for Durham. I have a legalization problem in Lebanon. I was looking for a germane bill to take care of the problem in Lebanon. Lebanon school district has a bond issue coming up on

June 9th or some such time which is over \$100,000, they are required to hold a hearing at least 15 days prior to the bond issue which they have done. That hearing, the statute says, must have at least 7 days notice in the paper. The hearing was last Monday the 23rd, the notice went in on the previous Monday, the 16th, bond council indicates, even though you and I would say that is 7 days, it is not really 7 days because you can't count one of the days. In fact there was lots of prior notice by way of news stories but the official notice didn't go in for 6 clear days, as the bond council would say it. So that's the defect where I would like to cure it. I would like to say there is no opposition but no one in Lebanon really knows about the problem yet. I would like to get it over to the house and let the house Lebanon delegation make the decision.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Senator Downing moved that the rules of the Senate be suspended so far as to allow the introduction of committee reports on HB 426 and HB 436 without proper notice in the calendar.

Adopted.

HB 426, revising the state tax on dog racing. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: This bill which gives the aid to Belmont race track Hinsdale in the area of dog racing. As you know, for the last year and a half, the dire straits that Belmont had been in pertaining to mutuel betting and also Hinsdale. It amazed me at the time of the committee hearing that Hinsdale has stayed in business for such a long time. There will be a loss of revenue to the state of New Hampshire and I would like to make that quite clear. The loss will be \$311,000. What the bill basically says is that \$750 will be paid to the state on the first \$50,000 bet and 6% after that. Our revenue last year was \$392,000 from Belmont and our loss this year will be \$311,000. But the issue is basically this: we have received some revenue or we receive no revenue at all because Belmont, unless they get this tax relief, will close its doors. Belmont runs 109 nights. Their handle never goes over \$100,000.

With this particular bill they will be eligible also this would affect Hinsdale but not to the same degree because the Hinsdale handle is probably only 14 or 15 times during the year in the dog racing does not fall under \$100,000. So everybody that appeared before the committee was favorable, the governor's office came down, they were favorable also, Mr. Bigelow, and it was a full committee report except for one member that the bill ought to pass. Now Belmont needs this immediately now that is why I asked to suspend the rules. They start running tonight. But after tonight until the tourists get there till about the 22nd, 23rd of June, they handle, some nights probably \$29-\$30,000 and no pari-mutuel in the nation can survive on that type of handle. The recommendation of the committee is ought to pass and I urge the full Senate to support the committee's report.

Sen. BLAISDELL: I want to rise in support of the committee report. This is not my area, it is Senator Trowbridge's area, he asked me if I wouldn't at least let the Senate know that he is in favor of the relief bill since Hinsdale is in his area and he would appreciate the senate supporting the committee recommendation.

Adopted. Ordered to third reading.

HB 436, revising the state tax on harness racing. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: This bill is basically the same bill but it pertains to the trotters at Hinsdale, which are in very tough shape. Basically their handle, the trotters, it does drop less than \$100,000. The loss to the state in this particular bill by projection will be \$113,000 this year. It was \$138,000 but they are not asking for as many trotting days this year as they did last year. Now the question, on this bill and this is very imperative, because if it is not approved, you will not have trotters at Hinsdale. They will give it up. In fact, they probably won't even run the dogs. So in this area, it is basically the same bill. If their handle goes over \$100,000 with the trotters, they do not go over that many times. So the loss of revenue to the state is \$113,000 but in the area of what Hinsdale brings in on the horses, on a study report by Representative Parr in the house it comes to about \$2,500,000 of the different areas, the

restaurant, the motel etc. in that area. I urge the Senate to support the committee report.

Sen. BLAISDELL: I rise briefly to support the Senate report again. Senator Trowbridge has asked me to speak to it; he is in favor of it. Hinsdale will not open if we don't have this relief. I appreciate your supporting the committee report.

Adopted. Ordered to third reading.

ANNOUNCEMENTS

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn we adjourn until Friday, May 27 at 12:00 noon.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 859, relative to prohibited collateral under the small loans law.

HB 688, relative to trust company director's stock holdings.

HB 947, relative to guaranty funds of building and loan associations.

HB 951, relative to the removal of absent town budget committee members.

HB 1054, relative to the distribution of legislative budget post audit reports.

HB 780, relative to certifications required of town and city officials on reports and assurances to state agencies.

HB 1148, relative to state public assistance programs.

HB 199, relative to the licensure of occupational therapists.

HB 89, relative to the licensing process and license fees for hospitals and medical institutions or facilities.

HB 969, establishing a bureau of community living in the office of the director of the division of mental health.

HB 938, allowing permits for child care facilities.

HB 1047, relative to overtime pay for employees of nursing homes.

HB 1029, adding exceptions to the licensing of child caring and child placing agencies.

HB 682, relative to the motor vehicles collections by town clerk or other municipal official and providing for the removal of a town clerk for cause.

HB 1159, authorizing towns by local referendum to acquire and dispose of industrial facilities.

HB 1031, to allow local units of government to enter local agreements for the performance of any legal functions.

HB 711, eliminating the requirement that town clerks send reports to certain state societies.

HB 900, authorizing cities and towns to discontinue public highways subject to existing utility easements.

HB 1015, relative to the liability of veterinary board and engineers board.

HB 717, relative to loan pay-back requirements for resident veterinary medical students.

HB 961, relative to the legitimation of children born out of wedlock.

HB 936, relative to the good samaritan law.

HB 649, relative to prostitution and related offenses.

HB 541, establishing a Livermore Falls Gorge study commission and making an appropriation therefor.

HB 342, relative to deputy conservation officers.

HB 149, increasing fees for lobster, clam and oyster licenses, providing a penalty for misuse of lobster and clam license.

HB 207, relative to hunting with bow and arrow.

HB 1060, legalizing certain action taken by the town meeting in the town of Durham and certain action taken by the school district meeting in the city of Lebanon.

HB 426, revising the state tax on dog racing.

HB 436, revising the state tax on harness racing.

Adopted.

Senator Monier moved to adjourn at 5:05 p.m.

Adopted.

Friday, May 27

The Senate met at 12:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

O Almighty and everlasting God, give us your grace we pray thee that we may celebrate Memorial Day with thankfulness as we remember the gifts and achievements of all those whom have been called home from their labors and from the fields of valour.

Above all may we rededicate ourselves to your just and loving purposes as we continue to labor for the freedom and well being of all people everywhere. That the torch of liberty lighted in this land of ours shall shine throughout the whole world. Through Jesus Christ our Lord.

Amen

Senator Provost led the Pledge of Allegiance.

Senator Hancock was excused due to important business.

VACATE

Senator Smith moved to vacate HB 96 from the committee on Education to the committee on Finance.

Adopted.

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE

INTRODUCTION OF HOUSE BILL AND HCR NO. 8

First and Second Reading and Referral

HB 452, relative to the operation of state liquor stores on Sundays and making an appropriation therefor, to Ways and Means.

House Concurrence Resolution 8

establishing a special joint committee to review the fact-finder's report submitted to the Legislature in regard to con-

tract negotiations between the State of New Hampshire and the State Employees Association to Rules.

Senator Downing moved to vacate HB 591 from the committee on Ways and Means to the committee on Capital Budget.

Adopted.

COMMITTEE REPORTS

HB 345, relative to the appointment of assistant secretaries of state. Ought to pass. Senator Healy for the committee.

Sen. HEALY: It was a matter of appointing assistant secretaries of state. The purpose of this measure was to have somebody available in the secretary of state's office at all times to handle and expedite matters of importance and matters of legislation and other business of the secretary of state which requires the secretary's signature, requires official assistance. A lot of this procedure, this was brought out particularly because of the number of recounts and a lot of activity is going on in the secretary of state's office during recounts and during political times and the secretary of state was not available and it was quite inconvenient for the office at times when his assistance was needed, especially his signature on certain measures. This bill is only for assistant secretaries of state which would be appointed only at the discretion of the secretary of state with the approval of the governor and council. The amount of compensation would be set up by the secretary of state and also the governor and council would approve his payment plan and also just about everything that is done in this and they claim they may not have to call on people very often. But when they do have stress they certainly need someone in that office to help out. And that is just about what the bill contains.

Sen. SANBORN: Isn't it also true that the intent of the secretary of state is perhaps to have two assistants, one to cover elections and the election law side of his duties and the other to be working more with the corporations and so forth?

Sen. HEALY: I would concur to some degree on that. During an election and recounts, it is very important period for the secretary of state. He is needed at recounts and he belongs there I would say. So he has to have somebody in his office to

give assistance to the public on many matters of importance concerning official state business. In general I would agree with your question and say yes.

Adopted. Ordered to third reading.

HB 982, relative to reciprocity in dentists licenses. Inexpedient to legislate. Senator Monier for the committee.

Sen. MONIER: The committee heard this in detail. One person who was a Navy doctor appeared in favor of the bill. The dental board and all of those who appeared otherwise and were in opposition to it—their opposition seemed reasonable to the committee on this basis. Number one, with respect to the reciprocity of this particular thing, was many of the other states do not provide this and last but not least there, what is the word for it, the manipulation, the part where they take not the written exam but the clinical examination, are different, state by state and as a result of it the reciprocity of this bill would lower the dental standards. Not being a dentist, I checked with my son and he agreed with it even though he would like to have reciprocity. So the committee moved it inexpedient to legislate on that basis.

Adopted.

HB 93, relative to the licensing of electrologists. Ought to pass. Senator Poulsen for the committee.

Sen. POULSEN: This bill licenses electrologists in the state and sets up a board of licensure for them. They have previously been under the cosmetologists but this gives them a complete separation, this gives them their own board of licensing and procedures and the qualifications. It is necessary, it is quite a delicate operation that they perform. It goes from here to finance.

Referred to Finance under rule No. 24.

HB 687, amending certain statutes relative to vital statistics. Ought to pass. Senator Healy for the committee.

Sen. HEALY: This bill was submitted to make some changes from obsolete reporting to deaths and so forth. I think the bill itself is very self-explanatory. On one particular change, on stillborn deaths, they want to refer those to people deaths. It is a matter of administrative procedures to help them file statistical reports to cities and towns and also morticians and the outstanding feature, the death certificate, the stillborn category should be deleted and the word fetal replacing stillborn.

Sen. PRESTON: Senator Healy, will you look at page 2 of the bill. On fetal death certificates, does this bill say that if an abortion is performed, that a fetal death certificate will be filed?

Sen. HEALY: During the hearing on that I don't recall the word abortion ever being mentioned.

Sen. PRESTON: Would you say the words induced termination of pregnancy meant abortion?

Sen. HEALY: The chairman of the committee, Senator Brown, perhaps is more informed than I am.

Sen. BROWN: Senator Preston, this question was brought up in committee and it definitely does not. Also, if you read the analysis, the very last word, the word abortion that was also brought up, that was a typographical error of legislative services, it was stated to the committee on record and there is absolutely nothing to do whatsoever with abortions.

Sen. PRESTON: Would you tell me what induced termination of pregnancy means?

Sen. BROWN: I am not a doctor. The question that you are asking of me, not the definition of it, but it was stated that it definitely had absolutely nothing to do with abortions.

Sen. PRESTON: Senator Brown, it says fetal death certificates. If I may read: "whenever a fetal death shall occur, the attending physician shall fill out a fetal death certificate. It will be required for both spontaneous and induced terminations of pregnancy.

Sen. BROWN: I can't answer you any further than I have. If you are in doubt you'll have to lay it on the table.

Senator Preston moved to lay HB 687 on the table.
Adopted.

HB 605, to provide a special liquor and beverage license for race tracks. Ought to pass. Senator Brown for the committee.

Sen. BROWN: This bill refers to liquor licenses at race tracks. At the present time the different race tracks around the state have numerable licenses, some have as many as six separate licenses: beer and spirits, and there is a separate license fee for each one. This bill will allow the race tracks to have one license for \$1500 per year. Presently they charge separately for the different licenses they hold. The total at the present is \$1250. From now on there will be one set fee of \$1500 which is \$250 greater than what they receive from any race track now.

Sen. ROCK: Senator Brown, was the bill amended in the house, it says \$1000.

Sen. BROWN: I beg your pardon, yes it was. The original bill said \$1000, it was amended in the house to read \$1500.

Senator Fennelly moved to lay HB 605 on the table.

Division vote: 6 senators voted yea. 9 senators voted nay.

Motion failed.

Sen. BOSSIE: Mr. President, in view of the controversial nature of the subject and the fact that a number of senators are not here might it not be a wise idea, not exactly table it, but make it a special order for next week so that we can all be here. I don't have any problems with the bill as it comes out but in view of the fact there is a distinct difference of opinion on this one, I think it would be a wise thing to do that.

Sen. PROVOST: Mr. President, I am against the motion for one reason. This is the most simple bill we have had all session. The only thing the bill does—instead of having wallpaper all over the place of licenses there will be one. That is the only thing there is. Instead of paying \$1200 they are paying \$1500. I don't see why we have to table a simple bill like that.

Senator Fennelly moved to refer HB 605 to interim study by the committee on Ways and Means.

Sen. ROCK: I guess Mr. President I am torn between two poles here. I would have to be against this motion to send this bill to a study committee on the other hand, I have to lean towards favoring the recommendation by Senator Bossie that it be made a special order only because I tried to give that courtesy to every senator throughout the entire year. I don't have any problem with this bill, I think the debate was rather

short if someone has a problem with it. The only problem that I have with it is I did make an agreement if there were some bills of controversy they could be reconsidered and the reconsideration would be left open until next Tuesday. Maybe the investigation could be done in that period of time or a special order but to send it to a committee and I think is unnecessary and I am against that motion.

Senator Downing moved that HB 605 be made a special order for Thursday, June 2 at 11:01 a.m.

Sen. DOWNING: Mr. President, the only reason I make the motion is that we had a similar bill in the past in the Ways and Means committee of which both Senator Fennelly and I are members. I had no problems with the bill at that time but Senator Fennelly had some serious problems with the bill. And I think it has been debated on the floor at an earlier time. Inasmuch as you just came in and you find it in the calendar now I think he ought to have the opportunity to develop whatever he wants to develop and if you support the motion it would allow him that time.

Sen. ROCK: Senator would you consider amending your special order motion to have it either Tuesday or Thursday. We already have several special orders for Wednesday when there is a slight social affair that is planned for that day and it is possible we all will miss it.

Sen. DOWNING: I'll be happy to amend that.

Adopted.

HB 161, permitting licensees to promote the sale of alcoholic beverages at reduced prices. Ought to pass. Senator Brown for the committee.

Sen. BROWN: Mr. President, as you recall, we had a session on a senate bill sponsored by Senator Rock to allow the advertisements of drinks by the glass and also to post signs for happy hour. That bill was killed in the house. This is a house bill sponsored by Representative Blanchette which will allow a sign inside the building not outside stating happy hours from whatever hours they want to give.

Senator Bossie moved that HB 161 be referred to interim study by the subcommittee on liquor legislation of the committee on Ways and Means.

Sen. BOSSIE: Mr. President, I am really very surprised at the content of this bill. Frankly, we should get our act together and I speak collectively. As to bills authorizing this sort of thing—as I said before when we had our debate with Senator Rock's bill and I went along with it. It is a sad day when we have to waste our time whether they are going to have a happy hour sign inside or in the men's room or wherever they are going to place it. I wish one committee could get these bills, that they would loosen up finely in this state, the liquor law, so we don't have this. Liquor unlikely 40 years ago when there was a ban and prohibited, is no longer a mortal sin. It is possible to drink and it is not unlawful to do it. Why we treat it as if it were some sort of sinister thing and by this if we permit this sort of bill to continue to be happening we are going to have a mish-mash of laws, and I realize the various factions in the liquor industry in regards to this. I am not necessarily opposed to them I just think we should have a systematic plan and rather than waste our time continuously we this sort of thing it would be a better idea.

Sen. SAGGIOTES: Did you mean to refer this to the committee on administrative affairs or do you mean the special committee that was set up just recently I believe to study the liquor laws?

Sen. BOSSIE: If I were to have one I would propose a sub-committee now studying it of Ways and Means. If I may amend my motion for that purpose.

Sen. LAMONTAGNE: Senator Bossie, do I understand you correctly that the Ways and Means committee is making a study of HB 161?

Sen. BOSSIE: Basically they are going to study all of the liquor laws. The liquor laws are a mish-mash and I think you would agree with that. I don't mind loosening them up like this but let's do it together. Why have a bill to keep doing silly little things.

Sen. LAMONTAGNE: The time has come, I think we may as well bring this thing to a head. Senator, let me ask you this, is there any bill in the Ways and Means committee that has anything to do with liquor including this bill or any other bills? in the Ways and Means committee?

Sen. BOSSIE: I don't know what you are getting at but I don't know of any. I know the subcommittee that has been set up and I think this would be a proper procedure and I don't mind voting for all sorts of things—bring in one package and loosen up the whole law and let us go to town with it.

Sen. LAMONTAGNE: Senator could you tell us whether or not, the President of this Senate has authorized the Ways and Means committee to make this investigation.

Sen. BOSSIE: I hear from the Senate is that the Senate has authorized it. It is the Ways and Means committee and this committee can study anything they want, it is their jurisdiction. Now I know that and we have done that with many committee that we have been on. It is a proper thing, I don't think it is threatening to anyone and it should not be threatening to you.

Sen. LAMONTAGNE: Mr. President, any legislation that is not into a committee has a committee a right to turn around and set up investigations and set up studies without being approved by the senate?

The CHAIR: The chair will state that the chairman of the committee and the committee members thereof have the opportunity to study whatever legislation they please that is generally within the confines of their committee.

Sen. LAMONTAGNE: At the present time, I know very well that the Ways and Means committee has been overloaded with work and there has been other work that has been sent to other committees in reference to liquor laws. Does this mean that just the Ways and Means is going to be looking into investigations and into the various bills in their committee?

The CHAIR: The chair will state that under the broad umbrella of assigning bills some bills that have a parallel relations are assigned to different committees. The Ways and Means committee is especially concerned with liquor as it raises revenue and some of the other bills relating to liquor have to do much more with the administration of the questions regarding beer, liquor. So there may be those places where there is a duality. The same question arose on HB 314. I assigned the bill to Public Institutions because it in fact deals with medical health. The Senate however, decided that it dealt more with insurance than it did with medical health and that is the question. Very often bills deal across various areas and are not

that narrowly confined.

Sen. ROCK: Senator Bossie, you said that our liquor laws at the present time are a mish-mash. What kind of mash would that be?

Sen. BOSSIE: Very good Senator.

Sen. ROCK: On a more serious vein, I know that you did vote for my bill to allow the operators of these holders of these licenses to have the happy hour, you don't oppose the concept of this bill?

Sen. BOSSIE: Senator, my whole purpose and Senator Lamontagne, appears mad at this, I don't mean to kill anybody's bill or anything: I think the laws regarding liquor should be liberalized. I think we should loosen up—it is no longer sinful to drink. Let us do it, have a systematic study, invite the Liquor Commission in and say look boys, this is the way we want it. Get it passed and I am sure I would be pleased to vote for a substantial amount of it.

Sen. ROCK: The problem I have with your reasoning Senator is that I am sure the committee will do an excellent job. But in the meantime at best we have to wait a year and possibly two to do the liberalizing that could be accomplished by passing this bill today.

Sen. BOSSIE: What will happen—if this were an emergency bill I would say yes, frankly, I don't do much drinking in the afternoons so I don't know what is happening at the happy hours but as I understand it people that want to drink need no invitation once they get in there. Once they get in there what the hell good is a sign that says happy hour. If you're there, fine and if your drinks are only 60c rather than 1.25 you'll soon know it.

Sen. ROCK: Would you consider it an emergency if a person wanted to have two drinks in the afternoon and had only \$2.00 and the drink were normally \$1.50 and at the happy hour drinks were only \$1.00, wouldn't that be an emergency for him that he would know where to go to get the two drinks?

Sen. BOSSIE: I think under the circumstances you point out the man, a woman would be in trouble because we have this tax adding on, I think he would still be in trouble, he would be 12 or 15c short anyway. I think he would still be in trouble.

Sen. MONIER: I just want to know something. Am I to

understand that every bill that comes in from hereon till June about liquor is going to be now go under the basis of the concept you have been saying it is going to be sent to this particular sub-committee or whatever?

Sen. BOSSIE: No. As far as I am concerned a lot of things would not come to the sub-committee. As we did last year with Senator Sanborn with election laws, every bill that came along we sent it to that committee and they did a very nice job. As a result of that there are many bills that came before the Senate this year. If there are bills that come along in the manner in which you can sell your liquor, either buy the drink or buy the bottle or whatever they do, I think it is a proper thing to study. I certainly would encourage this sort of thing to go to the subcommittee. These people on the Ways and Means committee aren't anti in my opinion.

Sen. MONIER: That wasn't my question.

Sen. BOSSIE: Well does that satisfy you?

Sen. MONIER: Yes and now I have another one. You talk about a term subcommittee of the Ways and Means, once again I am not fighting Ways and Means, I just want to know when this was established and by what procedure.

Sen. BOSSIE: I had no idea and I just heard of it this morning and I know they were doing a good job.

Sen. MONIER: The thing that I am saying Mr. Bossie, is that I have no objection but from listening to you at the beginning I get the implication that this was something established by the Senate. Now is this just the idea to have the Ways and Means have a subcommittee to do this—I don't know I merely am trying to get an answer.

Sen. BOSSIE: I understand that Senator Downing the chairman of the Ways and Means committee, established this subcommittee for the specific purpose of determining matters such as this. I guess they were going to do an extensive review anyway but now that they have bills to look at I think it would be a good idea.

Sen. MONIER: I would like to ask Senator Downing how we got the subcommittee etcetera and so forth.

Sen. DOWNING: Mr. President, first of all, I rise to oppose the present motion. I really don't think this bill needs to be referred to the special subcommittee. However, I appreciate the reasoning that Senator Bossie has for it. The statutes relating now to liquor laws are like a book of regulations. They are not statutes at all. Everything the liquor commission has to

do, they want to turn around we have to have another statute. It costs \$400-\$500 at least to process and develop one of these bill-bills and put it before the body. Not counting the committee work itself and the involvement of the legislative process. The whole thing is absolutely ridiculous. Now a little earlier in this session, let me go back to the end of the last special session. I spoke with the liquor commission and told them their liquor laws needed some updating and yes they agreed. And we reviewed this just a few weeks back here in this chamber. Nothing was done. We had a bill that was in jeopardy of passing—it was going to be killed because of the frustration of certain members of the Senate with the present liquor laws. In fact what do we have such a ridiculous thing before us for. At that time I advised the Senate of an earlier overture of the liquor commission to work on this thing but we hadn't accomplished anything and it would be my intent to proceed with it in an effort to update the liquor laws. I don't think we will gain anything at this point by referring these bills to the special committee. They are going to review it anyway, this has already reached the process where the cost to us and the inconvenience to us is insignificant. If a committee felt it was worthwhile and it felt the change ought to be made, that it ought to be a law, I would be inclined to support the report of the committee. I think the subcommittee is going to have plenty to do in dealing with the whole subject matter.

Sen. MONIER: Would it not be, and this is only a suggestion, would it not be more proper if we are going to do this as a Senate action rather than within a committee action that it be done by a senate resolution that we establish such a committee or whatever it is and proceed to have this as an interim study and come back and do this and come back out with legislation rather than take legislation we now have—I got the impression from Senator Bossie otherwise.

Sen. DOWNING: No Senator it wouldn't be more proper to answer your first question. Secondly, I think that the action that has already been taken is quite proper and quite sufficient. I don't think we need to be referring bills to this committee. This committee is going to review all of the existing liquor laws and I don't think it needs a special bill. If you want to send a bill to the Ways and Means committee or one of the standing committees fine. I don't think that committee needs to have bills referred to it, it has a task ahead of it now and it is

a task that is as much as they can handle and they shouldn't be diverted into other little subjects.

Sen. MONIER: I hope you don't think I was impugning the Ways and Means committee. I remember last year that we felt something ought to be done with a particular subject so we set up a Senate Resolution to do just that. I am wondering if it wouldn't be more appropriate to have the people in that subcommittee named in such a resolution is what I was trying to get at, rather than just establishing it.

Sen. DOWNING: Yes Senator and as I answered it I don't think it would be more appropriate.

Sen. LAMONTAGNE: Senator Downing, do you feel that if this bill was enacted it would be something we could try and see whether or not having signs on the inside of the buildings might create another gimmick in order to increase revenue. What do you think?

Sen. DOWNING: Senator I have no problem with the bill of the committee at all. I rose in opposition to the motion to send it to study because I feel we can act on the committee report now and I don't feel the subcommittee should have these individual issues referred to it. I support the committee report and I oppose the present motion.

Sen. LAMONTAGNE: I rise against the pending motion and favor the committee report ought to pass. I personally feel that this is something else that is new and I feel that it could increase revenue for the State. I think it is worthwhile to try as long as all the laws are going to be investigated by the Ways and Means committee as it has been said by the chairman. I don't see any harm in passing this bill and try to see if it is going to work out. Certainly we should do everything we can to cooperate with the commission in order to try out ideas for bringing additional revenue into the State. I am hoping the motion will be defeated and the committee report will pass.

Motion failed.

Senator Rock moved to lay HB 161 on the table.

Division vote: 18 senators voted yea. 0 senators voted nay.

Adopted.

HB 551, relating to strengthening the powers of the collection division of the department of revenue administration. Inexpedient to legislate. Senator Poulsen for the committee.

Sen. POULSEN: This is a bill submitted to help the Department of Taxation collect rooms and meals tax. It gives them a power that they did not heretofore have the power to levy which in this instance I think would let them come in before a real estate mortgage or anything else in the collection of rooms and meals tax. It is a terrible precedent, I think it weakens everyone that has a mortgage on anything else and I am not so sure that mortgage property would be safe if Mr. Price had the right to jump in with a levy any time that there was a delinquent tax. For that reason the committee has voted it inexpedient to legislate.

Adopted.

HB 722, amending the charter of the Union school district of Keene to provide that the trustees of trust funds be appointed by the school board. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: Mr. President, I believe that 722 is maybe on some of the tables here. It doesn't read exactly the way the clerk has read the title. However if I am not mistaken it was corrected in the form to which he did refer. It refers to the city of Keene school district. They have certain funds that have been given to the district and so forth and they are held by a trustee's trust fund within the school district. Not the trustee of trust funds to which most of us know it exists in little towns and the only thing here is to allow the school board to appoint the members of the trustee of the trust funds for the city of Keene. This is all the bill does. We had the hearing yesterday, there was no opposition. The school board was present, the superintendent of schools and the city solicitor for the city of Keene and they all favored the bill. I recommend its passage.

Adopted. Ordered to third reading.

HB 850, requiring each school district treasurer to pay out monies belonging to the district upon orders of the duly empowered representatives of the school board. Ought to pass. Senator Sanborn for the committee.

Sen. SANBORN: This was requested by the city of Keene school board. It does effect any community that has a large

school board. Keene has a 9-member school board and that means that any time the invoices and various bills come in to be paid they have to be signed by a majority, under the present law, of the board. This means that they have to have at least five present approving the bills and it is kind of difficult outside of the regular meetings of the board to be able to get five signatures. So this means that it takes that much longer before the bills may be paid. The proposal here is that the board, when it is a large group such as 9, as there are many within the state, may appoint and authorize within their own board a more or less financial group of say 3 who can sign these bills so they may be paid. The board has to still approve in the final instant, any and all bills approved by the executive committee that this does provide them with the chance of paying their bills earlier and quicker. There was no opposition to this bill, the same group to whom I referred the last time was present. The Department of Education was present at this hearing and had no opposition and we recommend the passage of the bill.

Adopted. Ordered to third reading.

HB 1004, extending waiver time for participation in the school lunch program. Ought to pass. Senator Smith for the committee.

Sen. SMITH: What this bill does in regards to the school lunch program is extend the date for which the school districts may apply for waivers from 1979 to 1983. That is all the bill does. We have had other bills dealing with the lunch program but this is a very different approach, it was passed by the house so that they could still have more time in testimony. Everyone appeared in favor of it except one person who was opposed to it. I hope the Senate will go along with it. Mr. President, I think this bill is really mandatory. If we passed that happy hour bill at least the kids will have some place to stop on the way home from school.

Adopted. Ordered to third reading.

HB 550, relative to agreements with veterinary medical schools to provide education to qualified New Hampshire residents. Ought to pass. Senator Smith for the committee.

Sen. SMITH: What this bill does is increase the amount that the State can contract for from \$8,000 to \$8,500 and also states that instead of having it in the law as it is that these increases which may become necessary from time to time will be taken care of in the budget. I believe under the rules of the bill it will have to go to Senate Finance anyway. I hope the Senate will pass it along.

Referred to Finance under rule No. 24.

HB 381, relative to the unfair sales act. Ought to pass with amendment. Senator Bossie for the committee.

Amendment to HB 381

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT repealing the unfair sales act.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Repeal. RSA 358, relative to unfair sales, is hereby repealed.

Sen. BOSSIE: Mr. President, the bill as it came to the Senate from the House was to amend the unfair sales act to give it some teeth and to allow the office of attorney general to proceed and put on a greater penalty. At the hearing we were discussing this and this is similar to what was formerly known as the Fair Trade Laws that we repealed two years ago. What the law is now, is that any retailer who within intend or effect of injuring competitors or destroying competition advertises offers to sell, or sells at retail any item of merchandise at less than cost to the retailer or any wholesaler who with intent or effect advertises, offers to sell, any of this merchandise at less than cost to the wholesaler, shall be fined not more than \$300.00. Evidence of any advertisement, offer to sell or sale of any item or any merchandiser, by any retailer or wholesaler at less than cost to him, is prima facie evidence of a violation of this statute. Basically the committee considered strongly as

to, see why do we even need this. In view of the fact that in the past many years the attorney general has never prosecuted anyone under it, it is almost impossible to prove, even with the amendment by the House it still won't do anything. and as we know a lot of retail stores, especially grocery stores, have loss leaders. They advertise 5 cans of peas for a dollar, when in fact it probably costs them a dollar ten for five cans of peas. Normally they would sell that for \$1.40. We don't think we need the law any longer and this would be an excellent chance to rescind it. Also Senator Brown just told me that the state has never gotten a conviction yet. If you can't get a conviction and it is almost impossible to do why have the law. We recommend that we repeal the whole thing and we will go from there.

Sen. SMITH: The bill basically repeals the Unfair Sales Act. What does the amendment do?

Sen. BOSSIE: The House amendment gave it more teeth. our amendment repeals the whole act. Apparently the House considered this, and they thought well now we got it we may as well keep it. It takes up five pages of the RSA and it really has no effect so why not get rid of the whole thing.

Amendment adopted. Ordered to third reading.

HB 286, increasing the number of fish and game commissioners from 10 to 11 by providing for two commissioners from Rockingham County. Ought to pass. Senator Preston for the committee.

Sen. PRESTON: Mr. President there is some legislation in another committee that covers some of the same material and in order not to be redundant it will give us time to prepare the proper amendment.

Senator Preston moved that HB 286 be made a special order for Tuesday, May 31 at 1:03 p.m.

Adopted.

HB 679, relative to the fees for licensing dogs and dog keepers or breeders and requiring a health certificate on dogs sold by breeders and providing a late fee for failure to procure a license prior to June 1. Ought to pass with amendment. Senator Preston for the committee.

Sen. PRESTON: This bill relates to the increase in licenses for dogs. Essentially the amendment deals with reducing the House bill amounts. They would have an unneutered male a \$10.00 fee. We have reduced that the Senate amendment to \$6.00 and the unspayed female from \$10.00 to \$6.50. We felt there were many animal lovers in the state that do have house pets, and the substantial increase, an \$8.00 increase, and we thought this would have been unfair. At the committee hearing it was brought out that some 8,000 dogs a year are found, apprehended and done away with by the humane officers of the state. Dogs at large have been becoming an increase problem and they estimate that there are about 25,000 animals that are unwanted in the state of New Hampshire. Now there was a lot of work done on these bills in the past year and they have come in through interim study, and the cost to the community for caring for the unwanted dogs has been phenomenal. Some of the towns have dog officers who receive little or no pay. It was thought if these licenses are instituted, and we tighten up in the laws that people would be encouraged to take better care of their pets.

Senator Bossie moved that HB 679 be indefinitely postponed.

(Senator Saggiotes in the chair.)

Sen. BOSSIE: Mr. President, I rise in opposition to this bill and I favor of killing the bill for several reasons. It is not merely because of the fact that there will be an increase in the fee for licensing of a dog. As we know now it is \$2.00 and it goes up to \$3.50 and that isn't much. But on an unneutered male it will go from \$2.00 up to \$10.00 and on an unspayed female from \$5.00 to \$10.00. There are many people in the state of New Hampshire that have dogs that are not purebred. A purebred dog often is a family dog and usually is given away rather than bred. Obviously nobody wants to continue a strain of an non-purebred dog. I see no value in increasing fees because of this. Those people that have dogs that are not purebred will not register them. So instead of increasing the amount of monies that will come into the towns and cities it will remain approximately the same because a substantial amount of people that can now afford \$2.00 can't afford the \$10.00 to register their dog. The city of Manchester, the city clerk's office, wrote to Senator Preston's committee to advise

them of this basic fact. They oppose the bill for that purpose. At the same time I do appreciate the good Senator's amendment to the bill so that it will be more reasonable. I see that it will go from \$2.00 to \$3.50 and from \$2.00 to \$6.00 for an unneutered male and \$6.50 for an unspayed female, I would like to correct the record on that. One of the basic problems that I have with the bill is that in the house when they amended the bill on page 1357 of our house journal, there is a little goody in here. It says no breeder shall offer for sale any dog less than 8 weeks of age. As we know and those of us who have had dogs and puppies rigamarole, it is normal to get rid of a dog or to sell them at age 6 weeks. I can't understand for the life of me why they would want that. In fact I understand, notwithstanding all the work that has been put into these bills that these are breeder bills. These are people that breed purebreds and are trying to for some reason put these mongrel types of dogs out of existence. Well there is a place for a mongrel, a mutt and I don't have any problem with it. I think that rather than affectuating what we want, to increase the revenue to the towns and cities, that it would perhaps create just the opposite, that in fact there will be just as many dogs running around. I know that in Manchester there are a 1000 dogs a year that are destroyed because people allow their dogs to run loose on occasion and to have puppies. The fact remains that these same people are the ones that can't afford to have their dogs neutered. I don't see how a bill like this, you're talking about people who want an animal and cannot afford a very expensive process. I would recommend that we indefinitely postpone.

Sen. SANBORN: Senator Bossie, I hear your remarks and agree that by raising fees to this extent are going to cause many families to get rid of the dogs. What would be your idea of what would become of these dogs if they no longer could afford to be licensed and so forth.

Sen. BOSSIE: They are either going to kill them or they are going to let them run loose. If the dog officer comes over to the house, is that your dog? No, I can't afford a dog.

Sen. SANBORN: Would you believe Senator that it is a known fact that people when they want to get rid of a dog now, especially in the cities and especially in Massachusetts, will come up on the back roads of the small towns such as mine and the next thing we know there is a poor dog starving to death somewhere along the road.

Sen. BOSSIE: I believe that Senator.

Sen. ROCK: We own a dog by the name of Pudge because the dog was all-American so we named him after Pudge Fisk. Needless to say it is a mutt. My question would be to you as you have indicated as the fees go up people aren't going to register the dogs. One of the purposes of registering the dogs is not a revenue source but an identification source. So this is going to be more difficult to the police and it is going to mean that more dogs are going to be running wild which might in turn have an effect on deer in the wintertime as these dogs start to pack up.

Sen. BOSSIE: I think so and I agree with your hypothesis. What we want to do is to encourage people who are going to have dogs to take care of them. This will not have the effect of doing what the sponsors would have it do. I sympathize with them but we don't need that money for revenue, it is only \$1.50, but it is going to do something that will negatively affect dogs and the ownership of dogs in the state of New Hampshire.

Sen. FOLEY: Mr. President I am in opposition to the pending motion. The people who did the studying were not all breeders as far as these three bills are concerned. Many of them were the dog officers of the towns and cities and the whole state, and they spent a year studying the problems and they felt that these bills were good bills. As far as the amount of money for a license I believe that the license fee of \$2.00 and \$5.00 was set way back in the 1800's and it was determined then that your dog was worth one day's pay. At that time one day's pay was \$2.00 and that is what it was for. I think that if you have a dog now and you don't think enough of a dog to have it at \$3.50, and I am not going by the Senate pay, the normal person's pay, I just feel if a person can't afford \$3.50 or 5 or 6. The cost of a dog license—the cost of a marriage license has gone from \$2.00 to \$5.00 to more than that. We have increased everything but the dog license. I think these people did a good job. Maybe people are mad at the dog officer maybe you have a big dog and you're going to kill every bill that comes in here but I just really feel that they worked hard on these bills, they had meetings in the areas, I have met with them and I really feel that they have done a good job and I feel and they feel that if this bill is passed that there won't be as many wild dogs running around and there won't be as much trouble with the dogs. Most of the city

clerks have an annual pay and it doesn't matter to them what the fee is. The dog bills being brought in today have been worked over very clearly and I hate to see them go down the drain in the Senate. I have a dog too.

Sen. ROCK: Senator Foley, you correlated this a bit with marriage licenses. Now as I understand it there are fewer and fewer people getting married. Wouldn't you think that fewer and fewer people might not buy the dog licenses if you raise the price?

Sen. FOLEY: I'll think of an answer before I go home.

Sen. ROCK: Senator are you a proponent of the equal rights amendment?

Sen. FOLEY: I knew this was coming. I had a gut feeling on that one. I'll think of an answer on that one too before I go home.

Sen. SMITH: I have thought on these bills a little and listened very closely to Senator Bossie who I have a great deal of agreement with on his motion and I also listened to Senator Foley's arguments and I am confused. I want to go home and talk to my dog. I would like to make this a special order.

Senator Smith moved that HB 679 be made a special order for Tuesday, May 31 at 1:04 p.m.

Division vote: 10 senators voted yea. 2 senators voted nay.

Adopted.

Senator Smith moved that HB 280 and HB 703 be made a special order for Tuesday, May 31 at 1:05 and 1:06 p.m.

Adopted.

(Senator Monier recorded in opposition.)

Sen. MONIER: I would like to be recorded no not because I am against special orders but simply, we are up here on a Friday and here is three more bills now when we already had an agreement from the chair that any bill today that was not satisfactory could be automatically be opened for action next Tuesday. I hope that we can pass some of these bills or take some final action on them. We have four that I know of of special orders of business already. That is the reason I am voting no.

Sen. SMITH: Senator the reason that I did and I realize that we are here on a Friday and I don't like being here anymore than you do. My thought was that there are certain Senators that like to debate these issues at length and I thought maybe

we might get out of here a little earlier because I had a feeling that that motion to make a special order will probably come up again anyway. Wouldn't you think that was a fair statement?

Sen. MONIER: I don't question your motives, I just make it a matter of record that I voted against it Senator Smith and I might add that since we already had a ruling from the chair yesterday to the effect that any bill that was here would be opened for discussion on Tuesday. We could have taken some action, reconsidered if we so desired. I would like to go home early too—I would rather not come at all. So far we have four for special order and one of them because an amendment couldn't be made yet, a legitimate excuse.

HB 103, relative to licensing fees for real estate brokers and salesmen. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: I am happy to bring in a bill like this that is going to raise some money for the state. Basically what the bill does is to increase the realtor's fee to a certain degree \$10 or \$15 dollars which will bring in additional revenue of some \$300,000 odd dollars. At the present time the commissioner of licenses cannot really run a department. With the increase in this and it was supported, the realtors had nothing against it, the state will make \$326,000 with this bill over the biennium.

Adopted. Ordered to third reading.

HB 302, to provide for interest on tax refunds for all taxes administered by the department of revenue administration. Ought to pass. Senator Downing for the committee.

Sen. DOWNING: This bill merely states that if you have overpaid your taxes and they have to be rebated by the Department of Revenue they have to pay you at the same rate of interest on your money if they have had it a certain time the same rate of interest as if you were paying a penalty. I urge you support the committee's report.

Sen. SANBORN: Could you tell me what taxes you are referring to?

Sen. DOWNING: Business Profits Tax.

Sen. SANBORN: Don't they have right now, if Business

Profits Tax makes an overpayment for we'll say 1977, that is credited against 1978, or they may use it against 1978?

Sen. DOWNING: Could you repeat the question, I didn't understand you.

Sen. SANBORN: We will say that company A makes an overpayment on its 1977 business profits tax. Aren't they allowed right now to make that a credit against the next, anticipated year?

Sen. DOWNING: Yes they have that choice to keep it as a credit. But if you want refunding, you want your overpayment back, you get it back. Either way you are going to get interest on it from the certain criteria that is outlined here.

Sen. SANBORN: If they credit it for the following year, does the state have to give 10% interest on that too?

Sen. DOWNING: No, it appears to be the date that the decision was made Senator. If you prepay your taxes you prepay your taxes. As of the date that the tax was due and it was applied to and you received credit for it your interest would stop as of then, if you are entitled to any.

Sen. SANBORN: I assume as I read this that nothing has been changed. That is 10% interest that the state will pay, is that correct?

Sen. DOWNING: Yes.

Sen. SANBORN: Say Senator Fennelly who is in business and has to pay into business profits, wouldn't it actually be better for him to put a \$1,000 or so extra into his business profits tax, get 10% interest and then haul it back in six months at 10% interest whereas the bank would only be giving him 5 or 6?

Sen. DOWNING: No. I think you'll find Senator that this is geared to unusual delays and you couldn't actually make money on the deposit that way. It is three months, it would have to be overdue a certain amount of time before you would be entitled to your interest. It gets into unreasonable delays. Furthermore with a \$10,000 appropriation I think you are going to have a pretty good shot at this personally a little later on.

Referred to Finance under rule No. 24.

HB 471, relative to the tobacco tax. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: This bill actually has nothing to do with taxes whatsoever. It was requested the Department of Revenue. It just clarifies in the area of tobacco manufacturers—it is a housekeeping bill.

Adopted. Ordered to third reading.

HB 746, to eliminate discrimination against non-citizens in the granting of liquor licenses, selling or delivering of liquor or any other occupation profession or business activity. Ought to pass with amendment. Senator Downing for the committee.

Sen. DOWNING: Mr. President, the amendment should have been printed in the calendar but it wasn't so it is being distributed now. All it does is extend the, I think it was 1975 when we updated a law in this area and said that the law would apply equally to aliens that were lawful residents of the United States, to be issued a license. However we have permits and certificates which were not included. It was an oversight and all of this adds to the statute, the amendment would be in the 332:A2, that was the paper just put on your desk. Right after license on the third line down, it would add the words permit and certificate and I urge you to support the committee report.

Sen. MONIER: Mr. President, if a man wanted to check this carefully because of its implications with respect to what it might do or not do would a motion be in order to lay it on the table?

The CHAIR: In response to your inquiry Senator Monier, a motion to lay it on the table would be in order.

Sen. DOWNING: I wondered if the Senate was aware that the entire bill was reduced to this single page and the only two words that change in the present statute area are permits and certificates are added to licenses.

Amendment failed.

Senator Fennelly moved to indefinitely postpone HB 746.

Senator Preston moved the previous question.

Adopted.

Motion to indefinitely postpone.

Sen. FENNELLY: Thank you Mr. President. I think we have gone far enough in the area of liquor licenses. I happened

to have been on the committee that heard the testimony on this bill. Now the present law states in New Hampshire that you must be an American citizen. This bill basically would give registered aliens the right to hold liquor licenses. In testimony in the committee, the testimony was saying that the registered aliens were discriminated against and they couldn't hold class A liquor licenses, at the present time they hold certificates. And then testimony went further to say that we want this bill for certain people, one in particular in Hanover, and the name is Mrs. Van Crump or something who belongs to a coop where the president of the organization must have her name on the liquor license. So after hearing the testimony we find out that she has been up there for about 28 years and has not decided to become an American citizen in honor of her deceased husband, she is a citizen of West Germany. We also find out in testimony in committee that her deceased husband was a general in the German army. When a person wants to become a citizen of the United States and take that responsibility and has 28 years to do it and applies for a liquor license and rejects it because she doesn't want to become a citizen, then something is wrong and I urge the Senate to support my motion.

Sen. JACOBSON: Is Mrs. Crump anyway related to Shreve, Crump and Lowe?

Sen. FENNELLY: I don't think so.

Sen. DOWNING: I rise in opposition to the pending motion. I can appreciate Senator Fennelly's sensitivity to German generals but I think it really should play a very small part if at all in your consideration of this matter. In the great American way the laws of 1976 recognize that these people who are in this country legally, should not be denied the right to licenses. However just because of terminology and somebody decides it isn't a license it is a permit and maybe one of learned counselors would apply themselves to that area if they like. They are a resident of this country, they have to deny it for some other reason. Just the same as any of us would be judged. I don't appreciate really the opposition to it, I don't think it is fair nor in compliance with your previous actions. I urge you to beat the present motion.

Sen. FENNELLY: Senator were those people denied citizenship?

Sen. DOWNING: No and we are not passing the bill for anybody in particular senator, there just happened to be some

folks who came down to testify on this bill that were sensitive to it and they injected a personal experience. I think it is far more extensive than that, it is a matter of policy of the state of New Hampshire and I think the bill with the amendment is completely in compliance and in line with the policy of the state of New Hampshire and with this legislature. I don't think we should judge it on an individual basis at all.

Sen. BOSSIE: Senator do you think that I as an attorney if I went to West Germany and became a registered alien, that I would be permitted to practice law if I paid my 50 deutsch marks.

Sen. DOWNING: No you probably wouldn't Senator but I imagine that there are other licenses that would be granted in Germany if you were a legal resident alien of that country.

Sen. BOSSIE: Don't you think if we are going to have this sort of thing that the more intelligent way to do it would be to have it based on reciprocity, that those countries that permit non-resident aliens to give them licenses of this nature that we would do that in turn?

Sen. DOWNING: It is another way to go about it, whether it is a smarter way I wouldn't pass judgment on that. I do know that the intelligent thing would not be to indefinitely postpone the subject. You have already agreed to licensing these people, that is the law of the state; I am merely talking now about permits and certificates. We agreed to license them already. The feeling was that the terminology of permits and certificates is left over. And when somebody applied for a permit, the attorney general said that the permit is different from a license.

Sen. SMITH: Senator, is this a sovereign state, New Hampshire?

Sen. DOWNING: Yes.

Sen. SMITH: Do we allow foreigners from Massachusetts to do this sort of thing?

Sen. DOWNING: Yes.

Sen. SMITH: So there wouldn't be much difference really as far as allowing somebody from Germany to do it. I am a little vague on this but it seems to me a couple of sessions ago I think I introduced a bill which would allow people to serve drinks who were not citizens?

Sen. DOWNING: It may have been. In this area of the liquor laws that is the type of thing you would be dealing with from time to time.

Sen. SMITH: In interim committee you hope eventually. But wouldn't this be a continuation or an extension of that?

Sen. DOWNING: No—this is one of those things Senator where a legislature thought it did a job, it had a problem, addressed the problem and thought it was completed. It wasn't realized until an individual ran up against it and it created some concern. They went to the attorney general's office and said no, it really ought to be cleaned up. So the legislation was developed and here it is.

Sen. SMITH: I have some constituents who have a Swiss restaurant and they were neutral during World War II, up in Waterville and they, before they could serve liquor, they had to have some kind of bill passed to get a permit?

Sen. DOWNING: It could have been the license bill Senator. Everybody thought that that took care of it. And now we find out it didn't. I think what generated all the interest in this, they formed a coop store up in Hanover and this particular lady that Senator Fennelly referred to earlier was chairman of the coop group. So when it came to get a permit to include beer or something in the store then it had to be given in the individual's name and that was the name of the chairman. Then the technicality arose. If she was applying for a liquor license then she had no problem but if she was applying for a permit then she had a problem. It was thought at the time that it was the intent of the legislative action in the laws of 1976 that that prohibition was eliminated but we just didn't put in the rest of the words. We had license, permit and certificate and we only used the word license.

Sen. ROCK: Senator you are telling us now that in 1976 special session we made a major change in the liquor laws, regulations or statutes, that allowed resident aliens to have licenses on-sale permits?

Sen. DOWNING: Licenses not permits or certificates. They have this different terminology.

Sen. ROCK: You just said that we made a major change in the laws to allow that to happen?

Sen. DOWNING: Yes.

Sen. ROCK: Can you tell me what the number of that senate bill was?

Sen. DOWNING: Gee I can't Senator, it would be the same statute 332:a2.

Sen. ROCK: Does it surprise you Senator to see so many of the Senators now asking questions along the lines they are

when you tell us that we passed this major legislation in a previous session when so many people didn't seem to be aware of it?

Sen. DOWNING: No Senator because I don't feel it was really major legislation. I feel it was just a common courtesy, just common decency. It was quite routine I feel. I think unfortunately the presentation before the committee injected some personal relations that some members of the committee were particularly sensitive to and if the matter had been placed before the committee just on the basis of what was done, what should have been done without any personal stories attached to it I don't feel we would have had the problem of conflict that we have now.

Sen. ROCK: Do you know or was there any testimony at the hearing Senator as to how many resident aliens took advantage of this change that we adopted in 1976?

Sen. DOWNING: No there wasn't any testimony, I don't know what the figure would be. I would just take a guess that it is insignificant though. I might say that the testimony before the committee was that five people testified in support of it and none in opposition to it.

Sen. HEALY: Senator you have an amendment to this bill, would it not be practical to incorporate something like if these aliens are willing to go ahead and request citizenship and have the papers presented and qualify to become citizens within a year, would that not help out the situation?

Sen. DOWNING: Senator, I don't think it is necessary. I think it is unreasonable. I don't think it would change the situation at all. People choose to be a citizen of another country for reasons known only to themselves. I have no quarrel with that any more than if my work took me to a foreign country. I don't think that I would want to give up my citizenship in this country necessarily. I don't think that that should be a requirement. The important thing is if by regulation or by statute we were to change certificates and permits for licenses it would already be accomplished that way too and there would be no personalities involved in this. This is perfectly compatible with the previous position of the legislature. I might add senator that this bill you have in your hand has been reduced to that one page you have on your desk.

Sen. HEALY: Senator I understand your amendment and all that. I happen to be an Irishman and I am also a very patriotic American citizen and my Irish ancestry doesn't

necessarily make me want to feel that I should still live in Ireland although I have close affiliations with Ireland—my parents came from there. I would like to go on the stand that what is good for one country is good for another and I can't see any citizens from the United States going into some of these other countries and getting privileges like this although we are a country of freedom. I believe too that if these people want this permission to handle such, they should become citizens. I would go along with them becoming citizens under getting any licenses, even driving an automobile as far as I am concerned.

Sen. DOWNING: I understand what you are saying Senator, I think it is a very narrow view but I understand it. I hope that you understand that legal aliens are authorized permits, varying and depending upon what is required in the individual countries.

Sen. JACOBSON: Senator Smith I was intrigued by part of a phrase you used that was foreigners from Massachusetts. My question is, are you speaking for those who enunciate quite often the complete sovereignty of the state of New Hampshire?

Sen. DOWNING: Not the complete sovereignty.

Sen. JACOBSON: I am having a concern that you might have had a conversion experience in the last few days, is that true?

Sen. DOWNING: No but I like to use other people's phrases once in a while Senator?

Sen. JACOBSON: I have to rise in opposition to the motion before us. I happen to be the son of immigrants. My father and mother came over here and they had to work as millions of immigrants had to do, and I think that we ought to recognize that fact. Though I agree with Senator Fennelly that somebody who has been here 28 years and hasn't become a citizen because they were related to some German general seems curious. I don't think that we should pass legislation on that kind of abuse of one individual for the opportunity of citizenship. I am sure that there are other members of the senate whose parents were immigrants also. This nation is still the home of the free and the brave. Although I have a very serious question with regards to the illegal immigration that is coming in. I think the Congress has been extremely lax in managing that problem and the estimates are between 6 to 10 million people. But for those who come in legally, who wait in line for

years in some countries, to deny them that opportunity, seems to me to go counter to the fundamental spirit of American life.

Sen. ROCK: Senator Jacobson, I am very impressed by your words but I would like to ask you if you can relate some instances in other countries with which you are familiar wherein this kind of an act would be allowed, maybe some foreign countries that Americans might be allowed to own land or hold a license or be a part of a business. Most of the countries that I know of you must deal through an individual resident of that country before you can even open a door of a restaurant never mind having a license to sell liquor.

Sen. JACOBSON: I can't speak to the liquor license set up at all. I have had the experience of living abroad for some time in England, Sweden and Spain and in England they gave me the privilege of being university lecturer, they even let me join the retirement fund so that when I am 65 I am going to get 30 shillings a week retirement. In Sweden I was granted the privilege of being visiting university lecturer and they taxed me and then were kind enough to turn around and return my tax because I was a non-resident. I lived in Spain and I was treated very well by the parish priest, so my experiences are generally positive.

Sen. ROCK: Would you tell me whether or not you could have had a liquor license in these countries?

Sen. JACOBSON: Senator, when I came down here and had learned some of the ways, being a country boy, I said to my wife the one job I want besides going over the river over here the second most desired job for me is liquor commissioner. My wife said the day I become liquor commissioner she is going to say goodbye. She has been a very good wife for 25 years so I have given up that ambition and therefore I have no opportunity to make those kinds of deals.

Sen. SANBORN: Senator I was interested in your 30 shillings that you will be getting someday in the future from England. Doesn't the United States government retire a good many foreign aliens that have never even been in this country, provide them with retirement.

Sen. JACOBSON: I don't know. Could you be more specific.

Sen. SANBORN: Relative to foreign countries, certain citizens of those countries work at various military bases and so

forth, ambassadors in the foreign countries, aren't they entitled to federal retirement just as I am?

Sen. JACOBSON: I presume they are if they perform services for the federal government. I do know of any case. My mother had a girlfriend whose father decided that he would like to join the United States Navy. And for 34 years he served the Navy, I don't know if he became a citizen, anyway he retired; his home was in Sweden and every time he got a furlough he saved up and went home and lived for 6 months every 4 years. They had 11 children or something like that. He got a retirement I do know.

Sen. HEALY: If we can set an example of freedom, I am going to vote for it.

Senator Downing requested a roll call. Seconded by Senator Rock.

The following Senators voted yea: Lamontagne, Poulsen, Gardner, Monier, Rock, McLaughlin, Keeney, Sanborn, Provost, Brown, Bossie, Fennelly, Preston.

The following Senators voted nay: Jacobson, Healy, Downing, Foley.

13 yeas 5 nays

Adopted.

Senator Downing service notice of reconsideration on HB 746 for Tuesday, May 31.

Senator Smith spoke under rule No. 44.

HB 824, providing for tax increment financing for redevelopment projects. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: This bill would allow housing authorities to issue bonds. The bonds would be secured by mortgage on the property of the housing authority. The bill was primarily requested for Manchester interests. There was no opposition to it. Appearing for it was sponsor Representative O'Connor, Mr. Hogan from the mayor's office of Manchester, the bonding counsel for the city of Manchester and executive director

of the Manchester housing authority and the New Hampshire Municipal Association.

Adopted. Ordered to third reading.

HB 872, exempting Christmas trees and related forest products from the timber tax law. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: This bill would help the people in the state who grow Christmas trees. The original law of 1949, these people were not taxed on the timber tax and for some unknown reason it was changed and then they were taxed. The competition between two states, one of which is Vermont, does not tax the growers on their trees. We tax about 2½ tax on a tree. That doesn't seem like much but in a competitive area like Christmas trees, New York and Vermont can sell at a cheaper price, it does hurt the New Hampshire growers. The testimony was all for it except for a person from the New Hampshire Municipal Association. There will be a loss of revenue throughout the state about \$6,000 to some of the towns and cities. The Department of Revenue was there and they couldn't tell us why in 1951 that these people who grows trees were taxed and they were not in opposition to the bill. There would be a loss of about \$1,000 to the department. I urge you to support the bill.

Senator Poulsen moved that HB 872 be indefinitely postponed.

Sen. LAMONTAGNE: I rise in opposition to this bill. This is a small amount but it is still important to the cities and towns. So therefore you take, many of these Christmas trees that are being cut and being transferred out of state. So I can't see why we should take the tax off the Christmas trees. When you go into other states you pay the sales tax. Why can't we have the benefit of the tax on those trees that are going out of state and for any trees that are being cut. We should continue with the tax.

Sen. SANBORN: Senator Poulsen, let me get this clear, the towns now get a tax up in your area where they grow Christmas trees. Don't they get a timber yield tax when and if growing timber that is going into lumber and so forth is cut?

Sen. POULSEN: Senator if I grow a 1000 feet of cut logs I have to pay the town something like

Sen. SANBORN: Senator, doesn't it take a bit longer to grow a thousand feet of logs than it does a Christmas tree?

Sen. POULSEN: Much longer.

Sen. SANBORN: Would you give me an estimate of the number of years that might elapse that is required to grow a Christmas tree versus that of a good timber pine?

Sen. POULSEN: For timber pine an average would be 50 years; Christmas trees are nearer 6.

Sen. SANBORN: In other words senator you are telling me in effect if I have an acre set out for Christmas trees that I can expect to get a crop off of that approximately once in 6 years. Whereas if I am restricted to timber it is going to take me, I might get one in my lifetime?

Sen. POULSEN: Yes.

Sen. SMITH: I rise also in support of the pending motion due to the fact that I think as I understand it, is part of the timber tax severance tax. I wonder about the constitutionality of segregating some type of woods of this nature. Besides which the revenues to the tree grower are more substantial and it has been indicated, that you probably cut over the same piece of land than if you were growing a timber stand. I think it is only fair that these people who are growing Christmas trees where there are many, many acres of them, be also included.

Sen. LAMONTAGNE: Senator is this true that Christmas trees if cut while they are young, nobody pays any taxes?

Sen. SMITH: Yes.

Sen. LAMONTAGNE: And if you were going to put them into a cord it would take quite a few sticks to make a cord?

Sen. SMITH: Yes.

Sen. FENNELLY: One thing that I failed to indicate to the Senate, that originally was the reason the Christmas tree growers were not taxed—the majority of the money spent is in the labor and not in the finished product—the tree. It isn't sold like timber. So in 1949 they were exempt and in 1951 they were put back in. The testimony in committee was that about 95% of the value of the Christmas tax was in labor and of course they paid a business profits tax I presume. So you have a situation here where they work on a very small margin.

They have to plant 10 years ahead of time. It doesn't sound like much 2½c but when you are in competition with another state right next door to you, something is going to give and it is going to be New Hampshire.

Adopted.

(Senator Foley and Fennelly recorded in opposition to the motion.)

(Senator Keeney recorded as abstaining under rule No. 42.)

INTRODUCTION OF GUESTS

HB 1033, relative to the exchange of tax information between state and federal government. Ought to pass. Senator Fennelly for the committee.

Sen. FENNELLY: This bill puts us in conformity with the requirements of the IRS. Mr. Price appeared before the committee, the director of revenue, and unless this bill is passed the IRS which gives us information pertaining to taxes on different individuals which last year, helped the Department of Revenue raise an additional \$500,000, we will not have that information from the federal government which helps the state. It was sponsored and requested by the Department of Revenue.

Adopted. Ordered to third reading.

HB 1064, relative to listing all exemptions on the annual inventory form. Ought to pass. Senator Keeney for the committee.

Adopted. Ordered to third reading.

HB 1104, changing the penalty for failure to file user of fuel reports with the road toll section. Ought to pass. Senator Keeney for the committee.

Sen. KEENEY: At the present time the Department of Safety Road Toll administration can charge a \$1.00 per day fine if the road toll reports aren't received at the proper time

or 10% of the total toll. They find this hard to administer, and I understand that this bill was at their request and they would prefer to see a flat \$10.00 per month penalty on overdue road toll reports.

Adopted. Ordered to third reading.

HB 760, authorizing the trustees of the New Hampshire retirement system to delegate the power to make investment decisions. Ought to pass as amended. Senator Poulsen for the committee.

Amendment to HB 760

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to the management of funds and authorizing the trustees of the New Hampshire retirement system to delegate the power to make investment decisions.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Management of Funds. Amend RSA 100-A:15, I (supp) as inserted by 1975, 379:2 by striking out said section and inserting in place thereof the following:

1. The members of the board of trustees shall be the trustees of the several funds created hereby and shall have full power to invest, and reinvest such funds, subject to all the terms, conditions, limitations, and restrictions imposed by the laws of the state of New Hampshire upon domestic life insurance companies in the making and disposing of their investments, and further may invest and reinvest such funds in shares of cooperative banks and building and loan associations located in this state, and may make deposits in savings banks or trust companies or in national banks and subject to like terms, conditions, limitations, and restrictions; said trustees shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created hereby have been invested, as well as the proceeds of such investments. Provided, however, that an

amount not exceeding 15 percent of the total funds of the New Hampshire retirement system may be invested in securities which are not authorized investments under RSA 411:15, but which are prudent investments for such a system to make. The board of trustees shall have authority to empower an investment committee of their members to make investments and deposits between meetings of the board, and the board shall have further authority to hire investment counsel. The compensation for investment counsel services and the compensation for actuarial services required by the board of trustees in performing the duties required by RSA 100-A:14 shall be a charge upon the funds of the New Hampshire retirement system. The state treasurer shall be the custodian of the several funds of the retirement system, but shall upon order of the board of trustees, a certified copy of which action shall be filed in the office of the state treasurer, transfer the custodial function to a custodian employed by the board.

2 Retirement Trustees Authorized to Delegate Power to Make Investments. Amend RSA 100-A:15 by inserting after paragraph I the following new paragraph:

I-a. The board of trustees has full power and authority to delegate to any agent within or without the state, who may or may not be the custodian of stocks and securities, the power and discretion to make decisions with regard to the purchase or sale of any legal object of investment and to take any action necessary to effect decisions by or on behalf of the New Hampshire retirement system with the same legal effect as if performed by the board of trustees of the New Hampshire retirement system. The board of trustees has the power to authorize the payment of compensation to an agent for management services. The board of trustees shall be liable for the acts of such an agent only if it is proven that the board was negligent in extending authority to the agent in the first instance or in failing to revoke the authority of the agent.

3 Effective Date. This act shall take effect July 1, 1977.

Sen. POULSEN: Mr. President, the amendment to this bill is on page 14 and 15 of today's calendar. It does several things. It lets the trustees use an investing company. It follows the old law in that they use the insurance companies legal list. It changes in that it gives them the right to invest up to 15% off the legal list. In other words prudent investments of 15% which is a hike from 5. The difference in percentage and

the possible gain between investing securities on the legal list and other more risky stocks. It isn't so great, it is a narrow range, but they are talking of investing a total of possibly \$250,000,000. That is the total amount, the percentage when you get down on the narrow percentage, could give about \$1 million more income to the trust fund. It is well worth doing and apparently there isn't much risk involved. The secretary of the treasury is all in favor of it, the commissioners are in favor of it. The amendment does one other thing. On the very last line of it it says that they are not liable themselves for the acts of the investment companies only if they were negligent in extending the authority in the first place.

Amendment adopted. Ordered to third reading.

Senator Preston moved to take HB 687 from the table.
Adopted.

HB 687, amending certain statutes relative to vital statistics.

Sen. PRESTON: Mr. President, in talking with Mr. Jenkins of legislative services and Senator Brown, very interesting language in this bill. It does refer to births, marriages, deaths and fetal deaths in the first paragraph. My initial question to Senator Brown was in regards to the induced terminations of pregnancy. In talking to legislative services, the fetal death could mean abortion at any stage would be considered and must be recorded. So if that is the prior intent of this bill then I would strongly support it.

Sen. LAMONTAGNE: I asked for a recess because I wanted to make sure that if an unborn child if that was what it meant that it was going to be recorded and I was told that that was what it meant then I am very much in favor of the bill.

Adopted. Ordered to third reading.

HB 515, establishing a study committee to investigate costs and methods necessary to update the recordkeeping functions in the office of the secretary of state. Ought to pass with amendment. Senator Brown for the committee.

Amendment to HB 515

Amend section 1 of the bill by striking out same and inserting in place thereof the following:

1 Committee Established. There is hereby established a study committee for the purpose of investigating the costs and methods necessary to update the record-keeping functions in the office of the secretary of state. The committee shall consist of one member of the senate appointed by the president of the senate, one member of the house appointed by the house, the secretary of state or his designee, 2 faculty members specializing in computer science from any accredited 4 year college or university in the state of New Hampshire, such faculty members to be appointed by the secretary of state. Said committee shall elect one of its members as chairman. The committee shall submit its findings and recommendations in the form of a printed report to the 1979 session of the general court.

Sen. BROWN: This bill establishes a committee consisting of one member of the Senate, one member of the House and two faculty members specializing in computer science from any accredited four year college or university in the state of New Hampshire. The amendment sets up the two faculty members. Originally the bill had one from the University of New Hampshire and one from Dartmouth. The amendment is on your desk, it was originally supposed to go into the calendar as a committee amendment, for one reason or another it was not done. That is the reason it is being presented this way. The Secretary of State's assistant testified and they had over 25,000 documents a year and the methods that they use have been in process for many many years and they don't have any updated equipment and processes. They would like this study committee to look into it and see if they can come up with some sort of central data processing to expedite and help the record keeping and accounting system there.

Amendment adopted. Ordered to third reading.

Senator Rock moved to take HB 161 from the table.
Adopted.

HB 161, permitting licensees to promote the sale of alcoholic beverages at reduced prices.

Senator Rock moved an amendment to HB 161.

Floor Amendment to HB 161

Amend the bill by striking out section 1 and inserting in place thereof the following:

I Retail Liquor and Beverage Price Advertisement Permitted. Amend RSA 175:10, II (supp) as amended by striking out said paragraph and inserting in place thereof the following:

II. Any retail licensee or permittee may advertise the price of any liquor or beverage dispensed or sold by the drink on the licensee's or permittee's premises, as long as the advertisement is not false or misleading. Such advertisement may be made in the media specified in paragraph I but shall be subject to such rules as may be adopted by the commission. Except as authorized in paragraphs I and II, all other advertising of liquor and beverages is prohibited unless specifically authorized by the commission.

Sen. ROCK: The floor amendment to this bill should look quite familiar to members of the Senate. We passed it earlier this year. The debate I think on the original bill before us, HB 161, was sufficient to tell you that this bill heard earlier today, would have allowed a holder of a license pursuant to RSA 181-4 and 178 to advertise special hours, events the primary purpose of which would be to promote the sale of alcoholic beverages to patrons at reduced prices. It however restricts that to the premise. The amendment which was originally SB 5 lets the holder of the license advertise in the media. Since it was already passed by the senate I hope that the senate will once more give it approval. It was voted inexpedient in the house and yet the house comes back and gives us the same legislation, basically allowing the advertisement but restricting it to the premise. If you can advertise it on the premise I see no reason why it couldn't be advertised anywhere else and the rules and regulations that would be governing the advertising would be adopted by the liquor commission as was originally in SB 5.

Amendment adopted. Ordered to third reading.

(Senator Bradley recorded in opposition.)

ANNOUNCEMENTS

Senator Downing moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, May 31 at 1:00 p.m.

Adopted.

Late Session Third Reading and Final Passage

HB 345, relative to the appointment of assistant secretaries of state.

HB 722, amending the charter of the Union school district of Keene to provide that the trustees of trust funds be appointed by the school board.

HB 850, requiring each school district treasurer to pay out monies belonging to the district upon orders of the duly empowered representatives of the school board.

HB 1004, extending waiver time for participation in the school lunch program.

HB 381, repealing the unfair sales act.

HB 103, relative to licensing fees for real estate brokers and salesmen.

HB 471, relative to the tobacco tax.

HB 824, providing for tax increment financing for redevelopment projects.

HB 1033, relative to the exchange of tax information between state and federal government.

HB 1064, relative to listing all exemptions on the annual inventory form.

HB 1104, changing the penalty for failure to file user of fuel reports with the road toll section.

HB 760, relative to the management of funds and authorizing the trustees of the New Hampshire retirement system to delegate the power to make investment decisions.

HB 687, amending certain statutes relative to vital statistics.

HB 515, establishing a study committee to investigate costs and methods necessary to update the recordkeeping functions in the office of the secretary of state.

HB 161, permitting licensees to promote the sale of alcoholic beverages at reduced prices.

Adopted.

Senator Smith moved to adjourn at 3:30 p.m.

Adopted.

Tuesday, May 31

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by Senator Jacobson.

Our Father, help us to understand clearly what is public service. Let not the minor substitute for the major. Increase our vision so that we encompass all the needs and establish our priorities from that perspective. Move us away from the dark places into the full sunshine. Give us the insight to know fact from fiction. In all our acts, give us Thy guidance.

Amen

Senator Downing led the Pledge of Allegiance.

Sen. Poulsen served notice of reconsideration on HB 1064.

Sen. Monier served notice of reconsideration on HB 850.

Sen. Bradley spoke under rule No. 44.

ENROLLED BILLS AMENDMENTS

HB 836, relative to taxation of residences in industrial or commercial zones. Sen. Lamontagne for the committee.

Enrolled Amendment to HB 836

Amend RSA 75:11, I as inserted by section 2 of the bill by striking out line 3 and inserting in place thereof the following:

some year to the selectmen or assessors, on a form prepared by the selectmen

Amend RSA 75:18 as inserted by section 2 of the bill by striking out line 3 and inserting in place thereof the following:

to RSA 75:14 or an order of the superior court made pursuant to RSA 75:15

Sen. LAMONTAGNE: This first amendment corrects an error by which the word sum appeared as sane in the amendment to the bill. The second amendment cross references errors in RSA 75:18 caused by renumbering sections of the bill.

Amendment adopted.

HB 315, permitting trustees of trust funds of towns to hire or employ trust departments of banks to assist in the management and investment of trust fund resources. Sen. Lamontagne for the committee.

Enrolled Amendment to HB 315

Amend RSA 31:38-a, I as inserted by section 1 of the bill by striking out line 3 and inserting in place thereof the following:

trustees covered by this subdivision by enabling them to have professional

Sen. LAMONTAGNE: Mr. President, members of the senate, this amendment is necessary to change a word. Subsection to subdivision so that it properly refers to the trustees covered by RSA 31:19:38.

Amendment adopted.

ENROLLED BILLS REPORT

SB 27, revising the occupational regulations relating to barbering.

HB 11, to provide for the conditional repeal of the requirement for wearing protective headgear on motorcycles.

HB 147, relative to the employment of an auditor by a school district.

HB 296, providing for the amendment of articles of agreement or legislative charter by a mutual savings bank or guaranty savings bank.

HB 361, relative to the penalty provisions for violations of statutes and rules pertaining to aeronautics.

HB 569, amending the charter of Coe-Brown Northwood Academy.

SB 1, relative to the duties of city and town clerks for voter registration.

SB 61, relative to the treatment of juveniles as adults in criminal cases.

HB 7, increasing the number of resident New Hampshire members of the New England Board of Higher Education.

HB 79, relative to the location of cemeteries.

HB 84, relative to temporary loans issued under the municipal finance act.

HB 215, permitting the posting of "for sale" signs in mobile home parks.

HB 348, relative to the eligibility of jurors to serve again.

HB 370, relative to salaries of full-time justices of district courts.

HB 525, authorizing a transfer of funds between two projects in the 1975 capital budget.

HB 695, naming the Robert H. Whitaker highway.

HB 796, establishing an approved absence program in houses of correction.

HB 474, permitting persons awaiting trial in superior court to work in a jail or house of correction.

HB 625, relative to motorboat noise level detectors.

HB 718, relative to the permitted width of buses on state highways.

HB 720, increasing the penalty for operating an off highway recreational vehicle on a railroad right-of-way, airport runways and cemeteries.

HB 762, prohibiting the towing of certain vehicles.

HB 781, to require notice of application for, or modification of, general assistance to be given to the municipality of settlement.

HB 795, permitting a county to borrow money in anticipation of federal or state aid or both.

HB 198, giving village districts the authority to maintain ambulance services.

HB 299, to provide New Hampshire home for the elderly classified employees a differential pay increase.

HB 311, relative to notice by the conservation commission to the water resources board on local investigations pending dredge and fill approval.

HB 445, relative to the penalty of a non-resident salt water fishing without a license.

HB 465, redefining the term "emergency vehicle" in the motor vehicle laws.

HB 623, relative to reporting of collateral resources by a welfare recipient and persons liable for support of a dependent child or of a welfare recipient.

SB 72, instructing the commissioner of resources and economic development to erect a commemorative marker on the Hampton harbor pier commemorating the Irving F. Jones family for contributions to commercial fishing.

HB 464, relative to the loaning authority of co-operative banks, building and loan associations and savings and loan associations.

HB 472, relative to the regulation of small loans.

HB 653, imposing a deadline for the adoption of a county budget and requiring the signatures of the chairman and clerk of the county convention for filing the adopted budget.

HB 689, relative to town funds on deposit in any one bank.

HB 714, amending article 8 of the uniform commercial code relative to the duty of an issuer to inquire into adverse claims.

HB 848, requiring optometrists and ophthalmologists to report all discovered cases of bad vision to the bureau of blind services.

HB 928, relative to veterinarian licenses.

Sen. Lamontagne for the committee.

COMMITTEE REPORTS

HB 258, restricting the disposal of high level nuclear wastes

in the state and within the coastal jurisdiction of the state. Ought to pass—Senator Hancock for the committee.

Sen. HANCOCK: Mr. President, members of the Senate, there were three bills introduced into the House relative to the disposal of nuclear wastes in the state. The first hearing was held in Portsmouth in March, it was a combined hearing of the Senate Environment committee and the House, Science and Technology committee. Following that hearing the House combined the bills or at least came up with one bill, sent one to study and I don't know what happened to the third one. But if you will look on page 958 of the house record you would find the bill which we are now discussing. I think as you know, that nuclear wastes have been a subject of concern to many communities, particularly in the seacoast area and I think there were about 11 of them which took a variety of action at the last town meeting relative to the transportation of waste and showing particular concern over the burial of radioactive waste here in the state. I think that we should keep in mind a couple of things. Namely this would not interfere with on-site disposal if as or when Seabrook is built. This bill was not opposed by the Public Service Company of New Hampshire. This bill will not prohibit the transportation of any waste from any sites within the state. As many of you may know the federal government is wrestling with this problem and they are hoping that by 1985 they will have a policy and a program dealing with nuclear waste on a national basis. At the present time they are looking for a permanently stable geological formation where nuclear waste can be buried with some degree of safety. I think that some of our New Hampshire people feel that one of those sites might be New Hampshire granite. In any case this is an expression by the people of the state that they are not interested in the disposal of nuclear wastes either in our coastal waters or within our territorial limits.

Sen. SANBORN: Senator, this may be a series of questions. Nuclear waste I know in the last 6 months to a year has been a very emotional subject and I firmly believe that we want to know what we are talking about. First, I am trying to find out is just what is considered a nuclear waste?

Sen. HANCOCK: I think by definition Senator there are three categories of waste. So-called low level, high level and then there is an exotic category of man-made elements called

transuranic wastes. The difference in these is the degree of radioactivity. What this bill speaks to is the burial of those wastes within the state of New Hampshire within our coastal waters. As you know now there are several spots within the United States where nuclear wastes are disposed. There is one in Washington, Idaho, Kentucky, Michigan and this bill says that the people of New Hampshire don't want one in the state of New Hampshire.

Sen. SANBORN: You said I believe transuranic waste. What is that?

Sen. HANCOCK: I am not a nuclear scientist, but simply explained it is the difference between low level, high level and transuranic is the degree of the radioactivity released.

Sen. SANBORN: When you talk about radioactivity—I realize this is some kind of a ray given off of this fissionable material. What are these rays that are given off?

Sen. HANCOCK: You can start with uranium and go all the way to reprocessing till you get to strontium 90 and so on. These are deadly elements that in the case of some of these wastes it is claimed that their life expectancy might run to 250,000 years and their effect on man is of course is cancer-causing and has deathly effects on man, animals and the planet. That is the cause for concern.

Sen. SANBORN: You named off some different elements, they themselves are not the rays given off. I just heard Senator Bradley mutter under his breath there alpha, beta and gamma. Can we consider these rays for a minute. I take it this is the stuff that is dangerous.

Sen. HANCOCK: Yes. The purpose of a nuclear plant is to create energy. It goes through a process that creates waste and that waste is a product which gives off radioactivity. And what people are saying is that they don't want this radioactivity, this waste buried in the state of New Hampshire or within our coastal waters. At the present time the federal government is looking for sites.

Sen. SANBORN: Being just a country boy I am trying to find out just what the danger is. What have I got to be afraid of. Is it these rays?

Sen. HANCOCK: As I indicated earlier these are quite deadly. If you have ever been to a nuclear power plant you realize that they are quite careful where they let you go and in what condition they let you go by way of body protection. Radioactive waste is extremely deadly to human beings. As I

said I am not a nuclear chemist or scientist but I think you are enough of a non-country boy to realize that you wouldn't be picking up radioactive nuclear waste if you were in your right mind.

Sen. SANBORN: What is dangerous and what isn't. What is alpha, beta and gamma?

Sen. HANCOCK: Senator I don't think that this is a game and I refuse to answer any more questions.

Sen. SANBORN: I just got the information that I was refused any further answers.

Sen. BRADLEY: The testimony before our committee which I take to be a fact as well as other sources that I have read on, for example, a speck of plutonium no bigger than a grain of salt if ingested will be fatal because it gives off radiation. No if it is alpha, beta or gamma, I am not sure which, but one of these things comes off and hits the cells in your body and destroys them or causes cancer. That is what is dangerous to it. If you get exposed to this stuff then it will kill you.

Sen. SANBORN: I go back to alpha, beta gamma. Is alpha one of the dangerous rays?

Sen. BRADLEY: I don't remember my physics well enough to know which one is the most destructive of whether one may be, but there are various forms of radiation given off and one of those forms at least if not more than one is deadly.

Sen. SANBORN: I have done a little reading on this ever since I first heard this bill was coming in. I have been told as far as alpha is concerned, this one ray is, unless you have a cut in your skin, it can't get in. It has no harm whatsoever. Is that true?

Sen. BRADLEY: I don't know. The point is that the radiation coming off of these wastes one of which is plutonium is fatal in very small amounts.

Sen. SANBORN: How about beta and gamma? Probably from what I have read, that a piece of paper or piece of cloth is sufficient to shield anybody from the beta ray. The gamma ray is the dangerous ray and four inches of lead shielding is sufficient to prevent any exposure to the gamma ray. The only way that it can effect you is by exposure or by time. Would you say this is correct?

Sen. BRADLEY: All of that sounds right.

Sen. SANBORN: Now you look at a reactor itself. I read about rods and all this and shielding in the reactor, isn't there something else that comes off of the reactor like a neutron?

Sen. BRADLEY: Yes, one of the particles that comes off of a nuclear reaction.

Sen. SANBORN: Is this only when the reactor is in operation? When it is shut down you couldn't get a neutron out of it if you tried?

Sen. BRADLEY: That could be right. I think you are making this more difficult than it needs to be Senator. The point is that when they take the spent fuel rods out of the nuclear reactors they reprocess them, to recycle some of the unspent material but they have left over with a highly toxic radioactive substance, a liquid substance which is extremely dangerous which the technology has not yet been developed as to how to store it for any length of time and attempts to store it have failed and the stuff has leaked into the soil where it has been buried and we are saying by this bill if we pass it, we don't want those burial sites somewhere around here in the state of New Hampshire getting into our water supplies or into the air.

Sen. SANBORN: This is one of the points Senator Bradley that I am after. I again read that whenever the spent rods are removed from the reactor to refueling, those by law have to go back to the atomic energy commission in Oak Ridge, Tennessee.

Sen. BRADLEY: They go to special places where they reprocess the rods. But then the question is what do you do after they have been reprocessed, what do you do with the waste that is left over. This stuff has been buried all over and there has been a proposal brought forward that New Hampshire would be a good place to bury them. By passing this bill we are saying we don't want them buried in New Hampshire.

Sen. SANBORN: We are talking about the rods that are in the reactor and so forth and how to circulate around that rod is a liquid, what do they use as a cooling medium?

Sen. BRADLEY: I don't know. I don't think that has anything to do with this bill.

Sen. SANBORN: You mentioned about this liquid residue that is left in there is radioactive.

Sen. BRADLEY: That's right. That is the residue which is left over after they have dissolved these rods in some kind of acid bath and reprocessed them. They got out what they wanted and left over is a highly radioactive, corrosive, liquid substance.

Sen. SANBORN: They dissolve the rods in an acid bath. Do they do that right here at the plants?

Sen. BRADLEY: That is done at special reprocessing centers. As I said before the issue that this bill speaks to is what you do with the liquid waste that results after that reprocessing has taken place, wherever it takes place. They bury the stuff at various places and we are saying that we don't want it in New Hampshire.

Sen. SANBORN: I noticed that Representative Parr and Senator Hancock were the two sponsors of this bill. I have heard Representative Parr two or three times speak relative to nuclear energy in very emotional tones and I don't blame you if you don't have the answers Senator Hancock. One of the statements that Senator Hancock has made the statement that several hundred people have died that worked at Portsmouth Naval Shipyard because of the radioactivity they received. Have you every heard?

Sen. BRADLEY: I haven't heard that. In hours of testimony I have not heard that one.

Sen. SANBORN: I have asked Senator Hancock several times to name one person and I still have to get one name.

Sen. BRADLEY: I never heard that claim.

Sen. MONIER: Senator Bradley, I have two questions. I am just asking you as a lawyer. Why is it necessary to have within here, the disposal of, within the territory of the jurisdiction of the state of New Hampshire and then add, nor within the coastal jurisdiction of the state of New Hampshire. Does not the territorial jurisdiction of the state of New Hampshire include the coast?

Sen. BRADLEY: I don't know that is nothing we ever focused upon. I think it is just to make it clear that on both land and sea to the extent that this state has jurisdiction.

Sen. MONIER: Would you not agree that territorial jurisdiction of the state would cover both?

Sen. BRADLEY: I think it is probably redundant.

Sen. MONIER: The second question that I have is section 2b in the amended bill. Incidentally the Senate ought to know that we do not have the amended bill in front of us. Section 2b defines radioactive nuclear fission waste and section 2b says as follows: "disposal means the placing of any radioactive nuclear fission waste as defined in a above, off the site of its original use." Now at the same time they put down here, "it shall not be construed to prohibit the transportation of waste." How do you take it off site and at the same time not transport it?

Sen. BRADLEY: I think what this says simply in a kind of roundabout way is you can have the stuff at the site, you can leave it there, it is customary to leave it there 6 months before taking it out the reactor to let it cool off but then all you can do is transport it out of the state. You can't store it anywhere. It either has to be at the original site or it has to be in transit. That is all we are saying is allowed in this state.

Sen. MONIER: Why don't they just say that?

Sen. BRADLEY: I don't know.

Sen. MONIER: What about Maine having to transport some of its material to the south, how do they do this—can they go through our state or does this mean that this is prohibited as well?

Sen. BRADLEY: I don't think it is clear as it might be on that point but that is permitted because that would not be a placing of, in my opinion, of an off-site, it would simply be transportation.

Sen. MONIER: You will read with me as a lawyer, would you please, "nothing herein shall be construed to prohibit the transportation of any such wastes from sites within the state. Now would you as a lawyer conjecture that that could mean that obviously from our own sites to anywhere else. What does it do to waste materials that we currently have that at the present time go down route 95?

Sen. BRADLEY: I don't think it is as clear as it ought to be in regards to Maine but I don't think you can extend the rest of the language to cover pure transportation going through the state, not stopping.

Sen. MONIER: Would you believe that I believe that is exactly why I think it is written the way it is?

Sen. BRADLEY: I don't know.

Sen. Monier moved to indefinitely postpone HB 258.

Sen. MONIER: Mr. President I have asked several minor questions about this and my concern with this is not, and I repeat not, that we ought to have radioactive nuclear waste stored in New Hampshire. The question in my mind in several different places, is the wording. I at the same time do not wish to be a party to any restrictive to any current operational activities with nuclear waste as they are being currently handled. I think you people should be aware that there is nuclear waste being transported on 95 at the present time. I look at

what that says and concern myself with sites out of state and passage through this state. It seems to be left mute. And since it has been amended twice I would like to know why it has been left and I have my own feelings as to why. In the first place the responsibility for conducting the on-going programs in order to fulfill and provide for sound, safe and proper method of management and I use that word because that's transport and storage of nuclear wastes is under the United States Energy Research and Development Administration. They are working on this now. I don't know whether they are doing a good job or not, I just don't think that we can have a bill that will do better than they have just for our own protection. The second thing that troubles me is and it isn't brought out and it should be is that 99% of the generated nuclear waste is produced by our defense system and not by our nuclear plants. Either at Seabrook potentially or somewhere in Maine or somewhere else. And therefore any action that we might be taking on this particular thing and I don't know if there is some at Pease Air Force base or not. I do know that Senator Sanborn has indicated there is some at the Naval Shipyard. It seems to me that we should leave this particular business to the business of the Federal Energy Research and Development Administration. President Carter himself has indicated that they are working on it. I have no real objections to the idea and thought behind it. I think what the idea of the sponsors should be that we just don't want it stored in New Hampshire. Why don't they just say so and leave the rest alone. I have sufficient reservations with respect to this business of transportation from within any site within the state. Senator Bradley kindly stated that he didn't know what that means and that it could have been stated better. My concern is that we should state it properly or we shouldn't state it at all. Number two is that I don't know that outside of defense industries in the state of New Hampshire where we have any of this radioactive waste. I do have an inkling from a conversation that I had this morning, that Dartmouth has some nuclear fissure. If so I was also told heresay, that they would have difficulty in transporting it under this kind of consideration because they come from over the border and across to pick this up and back onto whatever the line is, 91 in Vermont. They had a concern for this. On this basis I would like to see this indefinitely postponed because I don't believe anybody is going to have any policy within the next year or two and

where they are going to store this stuff in New Hampshire. And if this is the basic motivation of the bill I think we have other things combined into it and on this basis I would like to ask the senate to support the motion.

Sen. ROCK: Senator Monier would you say the way this bill is coming out it seems to be aimed particularly at the military and perhaps at the medical rather than anyone else?

Sen. MONIER: I think that I have implied that, I don't know that I would say it. The real thing is that I don't know what it is saying and I don't think we ought to pass it for that reason.

Sen. HEALY: This bill to me is something like the Clamshell Alliance would be involved in. It is like a smokescreen against the building of the nuclear power plant at Seabrook. It also affects our economy. If we start throwing up these kinds of roadblocks for the Seabrook plant and other construction projects, I can't go along with something like this. I see no wrong effect with nuclear materials being used and what comes out afterwards, if there is any strong, fatalistic waste to it. I have never heard of any proof where someone died as a result of waste material from nuclear activity. In fact I haven't heard of any nuclear deaths yet. So I strongly oppose this bill and hope that it is indefinitely postponed.

Sen. SANBORN: I rise in support of the present motion. Number one the sponsors and the house came upon a very emotional subject and put a bill in and basically they don't know what they are talking about. I expect that I may lose my country boy status here but I have worked with nuclear energy from 1955 up until I retired from the Shipyard. I learned in that time a considerable amount about the radioactivity and what it is and where it comes from and also what amounts to nuclear waste. I seem to be asking some questions that aroused the ire of some Senator trying to find out what they knew about alpha, beta and gamma rays relative to the neutrons that are given off and how long the life is on these neutrons and just what the waste was that we were talking about. At no time did I get a good substantial answer. So I feel that although I talked with Senator Keeney earlier, and she had been in communication with the Vermont yankee and indicated to me that she had at least some knowledge of the problem. We have prior to my retirement, refueled or fueled many nuclear ships at the shipyard. Never in that time has one person been overexposed to any of the various rays given off

by that energy. In fact they have indicated that people that live with those nuclear plants at sea on a nuclear submarine, have less exposure to rays and deadly rays than we do when we walk from here to across the street to get lunch in the sunlight. Until such time as people come up with the true facts and figures of what they are talking about on nuclear waste then that will be time to pass a bill. Actually in the refueling of a nuclear plant the entire core is taken off and put in a temporary container and shipped back to Oak Ridge. There it is disassembled and taken apart and all those parts that can be reusable are used there for the manufacture of new cores or for experimental purposes. The actual nuclear waste from a submarine reactor that would be radioactive would fill about a ten quart pail. And that is all there is. Of course Uncle Sam in his wisdom, so-called, figures that you want to be 350% safe so they call even the rags that are used to wipe down the reactor compartment, to be radioactive whereas the minute they have gone through a laundry and been washed that ends any radioactivity to that rag. Now the cooling medium that is in all reactors, there is only one that was ever built that did not use 100% pure water. One of the greatest shields to any radioactivity is pure water. That is why it is used. One plant, the Seawolf, was built with liquid sodium but that one is long gone out of existence. The plant has been rebuilt and that is using pure water. You want to remember another thing that in a nuclear plant you have two cycles, the inner cycle is a sealed cycle. That is the primary cycle that comes off the reactor, goes through a heat exchanger and back into the reactor. That heat exchanger takes other water, changes that to steam which in turn runs a turbine somewhere else. There is no way, again I emphasize, no way that radioactivity can go from the primary loop to the secondary loop. So basically when you come right down to it, a nuclear plant is safer, much safer than the steam plant that is down in Bow right now that is running over 1,500 pounds of pressure. You can't get that out of a nuclear power plant you can only get about 500 pounds. That is low pressure steam. You can lug that around in a bucket. But a 1,500-2000 pound plant like the one in Bow, if that ever blew its lid, half of the town would go. I very strongly urge the Senate until we know about it to support the motion of Senator Monier.

Sen. BRADLEY: Senator Sanborn I appreciate all the information you have given us about the operation of the nu-

clear plant. But you didn't have much to say about the 10 gallon pail that was left over after the rods have been reprocessed which is all this bill deals with. That bucket, the stuff in that bucket unless it is shielded from you, would be harmful to you would it not?

Sen. SANBORN: When it is removed Senator Bradley, right now it is put into a very large cement cast, concrete that is lead-lined on the interior to insure that there is no way any radioactivity can get out of that container. You can go up and down the outside of that with any kind of a geiger counter that you want to provide and you can't find anything come out of that cast.

Sen. BRADLEY: But if it is not shielded, it is dangerous, is it not?

Sen. SANBORN: Yes.

Sen. BRADLEY: It could be fatal.

Sen. SANBORN: If you were exposed to it sufficiently, a long time.

Sen. BRADLEY: And the material that is in there is dangerous in that sense for a very, very long time, like thousands of years?

Sen. SANBORN: Only if it is metal will it go for several thousands of years. Others have various half-lives.

Sen. BRADLEY: Do you know whether or not the containers that have been developed to hold this stuff-you talked about lead and cement, we have heard testimony about stainless steel, do you know whether any of those containers will last as long as the half-life of these elements?

Sen. SANBORN: I have been assured that they do.

Sen. BRADLEY: Senator have you received any information that some of the ones which are about 20 years old have corroded through?

Sen. SANBORN: It couldn't be 20 because we have only been in the business about 12 years.

Sen. FENNELLY: I would like to clear Senator Sanborn's mind as to what is the death effect. It is the gamma ray that produces death and cancer. This is the ray that is able to travel through air and water and so forth. I think we are getting way off the point on this. I think that everybody in the room knows that when a major amount of plutonium which is basically the substance which is the waste of a nuclear reactor, whether it be on a submarine or on a nuclear power plant, the minute that this waste is going to be transported the fed-

eral government is alerted to it, convoys that move it would travel through the state of New Hampshire and probably end up in Oak Ridge. There they would reprocess it and the plutonium which they couldn't would probably be stored in a place like Arizona or Nevada. The reason for that is they basically less of a chance for earthquakes out there which could disturb the contents. It is true what Senator Sanborn said. It is a solid steel containers etc., but you have to remember that this plutonium has a life expectancy of 250,000 years. Just one little drop of it, the size of a head of a pin, could kill a person. Now what you are talking about is 10 or 20 gallon containers. Now there is that possibility. Now I think we are missing the point. We are just doing what other states are doing—to limit the amount to a great degree of how much plutonium can be stored in the state if any and transported to other states that accept it. It does nothing more than that. To bring other areas into this is not right and I urge you to beat the present motion.

Sen. SANBORN: Senator the section referred to by Senator Monier relative to another state transporting through, could you inform me how the present waste coming from Portsmouth Shipyard could be transported through New Hampshire?

Sen. FENNELLY: I think in any transportation matters especially on a federal level, like Portsmouth, would automatically supersede state law when it comes to that federal installation. Because it is all on interstate.

Sen. SANBORN: You say that federal law would supersede state law on the highways. The moving of federal material would come under federal law not under state law?

Sen. FENNELLY: I would say that the atomic energy commission would have control over the movement, I am not too sure, of nuclear waste. I feel that if there is a problem with the bill pertaining to the moving of nuclear wastes I feel that that can be amended and I can't see the the problem.

Sen. FOLEY: I rise in opposition to the motion that is pending. This bill deals just with the disposal of nuclear waste material. It would prevent it from being put in the state of New Hampshire. There were about 350 people at the joint hearing that was held in Portsmouth. People from the shipyard were at the hearing and gave testimony and people from the Public Service came and gave testimony and as I recall there was no one from the Clamshell Alliance if that is worry-

ing you. I believe they had a meeting that night and they couldn't attend the joint hearing. So if anybody thinks that this is a Clamshell Alliance bill, it certainly is not. I want to put that to rest right now. I think there was some problem with seepage out in Nevada and in Arizona there had actually been seepage from some of these leak-proof barrels and there was a question on this and they felt that if there was going to be any disposal of nuclear wastes that it shouldn't be up in the mountains of New Hampshire. I believe this was the sole cause of the bill to make sure that these things don't happen once we get the nuclear power plant in here and if the shipyard decided that they didn't want to take it anywhere else and they wanted to put it up in the mountains, it would not happen. I think it was a good planning bill, it had an excellent hearing, there was no panic and everyone discussed it and we heard all about the shipyard. I worked on the shipyard and I worked with the sailors. I didn't work at the nuclear power plant so I can't answer any of your technical questions. I am just thinking about the future of this state and any possibility that somewhere in this state someone might decide that this would be a good place to store it way up in the north country where there aren't many people. I wouldn't want it there any more than I would want it in the seacoast.

Sen. SAGGIOTES: Senator Bradley, in the definition, section 2a, I am uncertain as to how this affects the radioactive waste that we get from Dartmouth college, would you please explain this to me?

Sen. BRADLEY: This is a question which I have asked several times in committee and was one of the reasons why the bill got amended. To make certain that the definition of radioactive waste was tight enough so that it did include the low level kinds of radioactive material which are used for experimentation at Dartmouth or used for various things in industry. There is a vast difference between radioactive isotopes that may be put into a carcass for experimentation and the kind of high-level radioactive materials that we are talking about which is the spent fuel rods themselves. The bill does not affect, control or speak to the low-level radioactive material that is used by medical centers and industry.

Sen. SAGGIOTES: If this is the case that this would not affect Dartmouth medical college then you would agree with me that that is the purpose of the amendment—making the exclusion in a rather discriminatory manner?

Sen. BRADLEY: No—there is a rather long definition of what radioactive nuclear fission means here and that was long and drawn by people proficient in the area to cover only the high-level stuff that can kill you and is really dangerous from the kind of stuff that is used experimentally at Dartmouth.

Sen. SMITH: Senator Foley, you indicated at the hearing in Portsmouth that there was a great deal of fear that this radioactive material might be placed in the White Mountains. Is that because it is a national owned land, federally owned land?

Sen. FOLEY: They were saying that there were problems out West in Nevada and Arizona. There had been some seepage in the sand and perhaps they should have something stronger like granite. They felt if they could put it in something like granite maybe they would be better protected.

Sen. ROCK: Mr. President, I rise very briefly to support the motion of Senator Monier. I have heard the testimony from several of the Senators and I think the testimony from Senator Sanborn makes the most sense this afternoon.

Sen. SMITH: I rise in opposition to the pending motion. I think that New Hampshire is a small state. Those mountains if used are a relatively small area and an area of this state and of the country which is heavily by people for living and for recreation. I think it would be very bad to jeopardize, or potentially jeopardize that type of situation.

Sen. Blaisdell moved the previous question.
Adopted.

Sen. Fennelly requested a roll call. Seconded by Sen. Bossie.

The following Senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, Healy, Sanborn, Provost, Brown.

The following Senators voted nay: Smith, Bradley, Blaisdell, Keeney, Hancock, Bossie, Fennelly, Downing, Preston, Foley, Jacobson.

11 yeas 11 nays

Motion failed.

Sen. Downing moved to lay HB 258 on the table.

Sen. Rock requested a roll call.

Seconded by Sen. Monier.

The following Senators voted yea: Smith, Bradley, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Downing, Preston, Foley.

The following Senators voted nay: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown.

11 yeas 12 nays

Motion failed.

Sen. Rock moved that HB 258 be sent to the committee on Environment for Interim Study.

Division vote: 12 Senators voted yea. 12 Senators voted nay.

Motion failed.

Sen. Downing moved to lay HB 258 on the table.

Sen. Rock requested a roll call. Seconded by Sen. Brown.

The following Senators voted yea: Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown, Downing.

The following Senators voted nay: Smith, Bradley, Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Fennelly, Preston, Foley.

13 yeas 10 nays

Adopted.

SUSPENSION OF RULES

Sen. Rock moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report

on HCR No. 8 without a hearing or proper notice in the journal and to place it on second reading at the present time.

Sen. ROCK: Mr. President we are distributing HCR 8 at this time. This bill has to do with the establishment of a special joint committee to review the fact finder's report submitted to the legislature in regard to contract negotiations between the state of New Hampshire and the State Employee's Association. I would clearly state to the Senate that the adoption of this resolution, should the rules be suspended, does not approve or disapprove of the fact finder's report. It establishes a special joint committee, the committee to be composed of three members of the House and two members of the Senate. They are appointed by the Speaker of the House and the President of the Senate to review the fact finder's report and to recommend appropriate action on both Houses no later than June 9th. Now frankly some of the people that have spoken to me find some difficulty in adopting the fact finder's report. That it may indeed lack some of the proper information. However, that is not for us to decide here today. What we must do is to establish these committees so that we can get to work and get a report back by June 9th. I think you know from the rules that we have established that there are some changes that are going to be talked about a little later on today. The element of time is the one that is causing the suspension of the rules to be requested of you at this time. I am not too happy frankly Mr. President, with the three members of the House and two members of the Senate. I think on an important committee such as this we should have equal representation. I think there should be the same number of members of the Senate as there are of the house. I am willing to live with it and further delaying it and causing a committee of conference on HCR 8 we are further dipping into the very limited time that the committee will have to do its work. Again it does not approve or disapprove of the fact finder's report it merely establishes a joint committee to study the report and to recommend back to both houses appropriate action that we would take on that issue. I think you are all familiar with the report it has to do with state employee's pay raises.

Sen. BOSSIE: Would you have any great objection if I made a motion to amend this report by having three members of the Senate as well as three members of the house?

Sen. ROCK: I would probably say in this case and I have

discussed it with Senator Smith and Downing, members of the Senate Rules committee, that if we do take that tack at this time we are going to lose a couple of days. Our nonconurrence would cause a committee of conference to be established, it could be tomorrow or the next day before we got final approval and I just think that we are causing some problems for the committee which has to report back by June 9th. If it were the wish of the Senate I would vote for that amendment. I would hope that we would consider I hope that it would be brought before us first.

Adopted.

HCR 8, establishing a special joint committee to review the fact-finder's report submitted to the Legislature in regard to contract negotiations between the State of New Hampshire and the State Employees Association.

Sen. Bossie moved an amendment to HCR 8.

Amendment to HCR 8

Amend the Resolution by striking the last paragraph and inserting in place thereof, the following:

Now Therefore Be It Resolved that there is hereby created a special joint committee to be composed of 3 members of the House and 3 members of the Senate appointed by the respective presiding officers to review the fact-finder's report and to recommend appropriate action to both Houses of the legislature no later than June 9, 1977.

Sen. MONIER: Am I correct Senator Bossie, that this amendment does only one thing, and that is maintain what we say in the constitution, the Senate is an equal body of the House?

Sen. BOSSIE: It sure does and that is the only reason we offer this amendment this afternoon.

Sen. ROCK: I rise in support of the Bossie amendment. I think the precedence for this is clearly established. On the bargaining bill we had equal representation, the legislative consumer's council we had equal representation and I think

we make up in quality what we lack in quantity and I support the three members.

Amendment adopted. HCR 8 adopted.

INTRODUCTION OF GUESTS

SUSPENSION OF RULES

Sen. Rock moved that the Rules of the Senate be so far suspended as to take up proposed amendments to the Joint Rules for the 1977 session.

Adopted.

Sen. Rock moved the following amendments to the Joint Rules.

Amendment to Joint Rules

Amend the Joint Rules by Striking Out Joint Rule 10 and inserting in place thereof the following:

10. Final action, excluding action on enrolled bills committee reports, shall be taken by each house on all bills and joint resolutions as follows:

a. In the originating house:

1. On those referred to the Ways and Means Committee which raise or affect statutes raising revenue, no later than the 2nd Thursday in May.

2. On those containing appropriations, including the so called Budget Bill and Capital Budget Bill, no later than the 3rd Thursday in May.

3. On all others, no later than the 1st Thursday in May.

b. In the non-originating house:

1. On the so-called Budget Bill and Capital Budget Bill no later than the 2nd Monday in June.

2. On all others, no later than the 2nd Thursday in June.

None of the above limitations shall apply to the supplemental budget bill. If any bill or joint resolution is sent to a committee of conference, further action may be taken subsequent to the above dates by the House or Senate.

Further amend the Joint Rules by Striking Out Joint Rules 30 and 31 and inserting in place thereof the following:

30. Both houses shall take final action including final action on all committee of conference reports, excluding final action on any bill or joint resolution referred for interim study or action on enrolled bills committee reports, on the so-called Budget Bill and Capital Budget Bill no later than the 3rd Tuesday in June, and on all others no later than the 3rd Monday in June.

a. Reports of the Committee of Conference on all revenue bills and on the so-called Budget Bill and Capital Budget Bill shall be filed with the clerks of both houses no later than the 3rd Thursday in June, and on all others no later than the 3rd Friday in June.

31. All revenue bills shall be submitted to the Governor for his signature no later than the 4th Wednesday in June, and all other bills, including the so-called Budget Bill and Capital Budget Bill, no later than the 4th Thursday in June; and when each house adjourns on the date that all bills and joint resolutions have been submitted to the Governor for his signature, it shall adjourn to the joint call of the President of the Senate and the Speaker of the House.

Sen. ROCK: With the heading May-June, 1977, you have what we originally adopted as the joint rules in a sort of calendar form. The wording was a little more formal and legalistic. If you will then turn to the second page the calendar headed June only you will see what the changes are and on the subsequent page which is to amend the joint rules by striking out joint rule 10 and inserting in place thereof you will find legalistically what we are proposing for consideration by the Senate and the House today. Under 10, final action, excluding action on enrolled bills etc. down as far as a, 1, 2, 3 no change that is all the same as what we have been working under. Under b you find the change—b1. On the so-called budget bill, the capital budget bill no later than the 2nd Monday in June. I have a retyped version I can't read my own writing. On the so-called budget bill and capital budget bill no later than the 2nd Monday in June. If you will look back at your little calendar now you'll see that that is June the thirteenth and that originally on your other calendar was June the 9th, transfer day for budgets and appropriations bills out of the second house. That now becomes June thirteenth so Senate finance is picking up a couple of days, the Thursday, Friday, Saturday, Sunday and hopefully the Monday to make that change. Con-

tinuing now on the typewritten page under two. All others no later than the second Thursday in June. On your first and original calendar that was the first Thursday in June, June 2nd, where it said transfer day for all non-appropriations bills out of the second house. It now moves down to June the 9th. Transfer out of the second house for all but the budget. None of the above limitations shall apply to the supplemental budget bill. There isn't any supplemental budget bill and from what I can learn from the chairman of the house appropriations and what the esteemed Chairman of the Senate Finance says, there isn't going to be any appropriations supplemental budget bill because there isn't going to be any supplemental money for a supplemental appropriations bill. That's the wording of the joint rules as it was originally. If any bill or joint resolution is sent to a committee of conference further action may be taken subsequent to the above dates by the House or the Senate. To further amend joint rules by striking out joint rule 30 and 31 and inserting in place thereof 30. Both houses shall take final action including final action on all committee of conference reports including final action on any bill or joint resolution referred to interim study or action on enrolled bills, committee reports, on the so-called budget bill and capital budget bill, no later than the third Tuesday in June and on all others no later than June, the third Monday in June. Now if you go back to the June calendar again. You will notice that at three o'clock on the fifteenth, we file the committee of conference reports on budgets and revenue, on the sixteenth at 3:00 o'clock the filing of committee of conference reports on other bills, on the twentieth the final action on all committee of conference except the budget, on the twenty-first final action on committee of conference on budgets, revenue bills to the governor, on the twenty-second all other bills to the governor. The best way to establish that is to work backwards, realizing that July 1 is a deadline day, the bills must be in the hands of the governor so many days before that so should he take veto action we will be here to handle the vetoes. I think that in essence Mr. President, members of the Senate, tells us what we are trying to accomplish. If you don't think there is a need for this change in the joint rules I would refer you to today's calendar. Today's calendars you had twenty-five bills and five special orders. You have disposed of one bill and none of the special orders and it is now ten minutes of 4 and there is a lot of work to be done. 300 and some

odd bills yet to be reported out. I made it a point this morning in the meeting of the joint rules, Senator Smith was present, to clearly state the Senate disapproval with the way that the House handled its work this year. Number one, the House took 4½ months to do its work and handed us 600 bills that we have to do in 10 days. Number 2 the House refused to take action on Senate bills that were sent to them in a timely fashion and were in plenty of time for us as Senators to be there and answer questions to speak on our bills. They decided they would take up our senate bills for hearings, bills which they have had sitting there for months only after they dropped 600 bills in our lap. What the consequence was, was last Thursday I had 30 different hearings that I had to attend on bills that I was either the sponsor or the prime sponsor. Also in Senate Finance today, we are getting bills with very low house numbers on it, in the 300's. These bills were out, hanging around the House months ago. Major bills dealing with restructuring of the entire mental health division. The house was put on notice that this was probably going to be if any of us are unfortunate enough to be back here, the last year that we put up with this kind of handling, earlier cutoff dates, earlier deadlines, earlier drafting of bills, the only answer we have to a crunch such as this. But I think it is impossible for the Senate to do its work properly, hear these bills, to do our debating on the floor because much of this couldn't be done in the hearings in the time allotted to the bills and I would be happy to answer any questions about the proposed changes that I would ask the senate to consider should the rules be suspended to allow the introduction of the changes.

Amendments adopted.

ENROLLED BILLS AMENDMENT

HB 436, revising the state tax on harness racing. Sen. Bergeron for the committee.

Enrolled Amendment to HB 436

Amend section 1 of the bill by striking out lines 1-3 and inserting in place thereof the following:

1 Tax Amended. Amend RSA 284:23 by inserting after paragraph V the following new paragraph:

VI. Notwithstanding RSA 284:23 to the contrary, if the pari-mutuel

Amend section 2 of the bill by striking out line 1 and inserting in place thereof the following:

2 Repeal. RSA 284:23, VI relative to the state tax on harness racing is

Sen. BERGERON: This amendment renumbered a new paragraph as 6 because of the prior passage of house bill 426.

Amendment adopted.

COMMITTEE REPORTS

HB 290, relative to increasing the insurance requirements of motor vehicle drivers' schools. Ought to pass—Senator Bossie for the committee.

Sen. BOSSIE: Mr. President, this is a bill that increases the amount of basic insurance coverage for motor vehicle driver's school from 10/20. That is \$10,000 for any incident and \$20,000 for the aggregate to 100/300. This is a very minimal increase in view of the fact that it is now impossible to buy the policy for 10/20. As we know the minimum amount is 20/40. This bill received a favorable hearing from Mr. John Groves of the Department of Education and Paul LaVoie of the Department of Safety. It had no opposition and it appears to be a good bill and the committee was unanimous in its support of this bill.

Sen. LAMONTAGNE: Does this have the word shall or may?

Sen. BOSSIE: Shall.

Sen. LAMONTAGNE: What will be the difference now? Will the cities and towns have to pay the difference?

Sen. BOSSIE: Normally this is for driver's schools not for driver education within the schools. The driver education within the schools I am sure would have a higher policy than this. This would be for private driver education schools, would be required to have this higher limit. This is similar to

what our private policies are. It would be a very minimal increase in the premium.

Sen. LAMONTAGNE: What is the minimum increase?

Sen. BOSSIE: In premiums no testimony was given as to what it would cost a school but as we know in our private insurance the difference between 20/40 and 100/300 is probably \$15.00. It is hard to know with a school.

Sen. LAMONTAGNE: Mr. President, members of the senate, I am a little worried about this HB 290 and therefore would like to move to make it a special order for Thursday. I feel that we ought to know what the cities and towns are going to be facing as far as the cost of these premiums. If they are going to be increasing from 10/20 to 100,000 I am afraid that the insurance rate is going to be very steep and I would be more in the favor of amending it to 20/40.

Sen. BERGERON: Mr. President, I rise in opposition to the motion. The bill was filed primarily for one specific purpose, the bill was requested because the original law only asked for \$10,000 worth of insurance, liability coverage. As we all know, the minimum financial responsibility statute in the state of New Hampshire is 20/40 and that was the reason for the bill. The bill further only affects the 52 private training schools in the state. We are just asking them to increase the limit.

Sen. LAMONTAGNE: I have just been told by a Senator that this would not have any effect on our driving schools that are operated and insured by cities and towns, is that correct?

Sen. BERGERON: Yes. Let me read something from the testimony of Mr. Paul Lavoie. The reason that we are asking the increase are one, being of the 52 current licensed schools in the state there is only one that does not carry at least these limits at this particular time. So you are in essence only talking about one particular private, driver training school.

Sen. LAMONTAGNE: Seeing that the matter has been explained to me and that it is not going to involve the cities and towns as far as additional premiums to be paid, then I withdraw my motion for a special order.

Adopted. Ordered to third reading.

HB 1144, relative to the establishment of workmen's compensation self-insurance programs. Ought to pass with amendment—Senator Bergeron for the committee.

Amendment to HB 1144

Amend RSA 281:7-a, II as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

II. The amount of appropriated funds shall be based on an actuarial determination of the amounts needed for self-insurance purposes. Any appropriated funds that are not encumbered under this section at the end of the fiscal year may be transferred to the general fund of the public employer.

Sen. BERGERON: Mr. President this bill was filed due to some of the problems that some municipalities have faced in some insurance programs. Particularly the city of Manchester. What has happened is that the Department of Revenue Administration has notified them that all funds not used up or encumbered would lapse at the end of the year. Therefore they have absolutely no provisions for maintaining adequate reserves. Now the amendment addresses itself to just one word, section 2 of the bill, it read "any appropriated funds that are not utilized". Proper terminology should be "any appropriated funds that are not encumbered", because you may have to use some of these funds against reserves. That is the full extent of the bill and the committee was unanimous in its recommendation.

Amendment adopted. Ordered to third reading.

HB 126, relating to certain acts prohibited by insurance company officers and directors. Ought to pass—Senator Bergeron for the committee.

Sen. Bergeron moved the following amendment to HB 126.

Amendment to HB 126

Amend RSA 402:28, as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

402:28 Prohibited Official Acts. No director or other officer of an insurance company, and no member of a committee having any authority in the investment or disposition of its

funds, shall accept, or be the beneficiary of, either directly or indirectly, any fee, brokerage, commission, gift or other consideration for or on account of any loan, deposit, purchase, sale, payment or exchange made by or in behalf of such company, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, agent or beneficiary, except that, if a policyholder, he shall be entitled to all the benefits accruing under the terms of his contract. This section shall not prohibit the purchase by an insurance company of real property serving as the residence of any of its officers or employees, other than a director, when such purchase is made in connection with the relocation by the insurer of the place of employment of such officer or employee, and at no more than the fair market value of such property as determined by an independent appraisal. No such real property having a purchase price in excess of \$60,000 or serving as the residence of an officer may be so acquired except with the approval of the commissioner. This section also shall not prohibit the taking of a secured mortgage by an insurance company on real property serving as the residence of any of its officers, other than a director. Such mortgage shall not exceed 85 percent of the appraised value of such realty as determined by an independent appraiser or the market value, whichever is the lesser amount. One of the terms of such mortgage shall provide that the outstanding balance of the mortgage becomes immediately due and payable to the company upon termination of the employment relationship between the company and the mortgagor, or upon termination of said officer's ownership of said real property.

Sen. BERGERON: Currently insurance companies are denied a privilege that business corporations in the state of New Hampshire, banks as well, have. It specifies that no director or other officer of an insurance company may have an interest in any loan whatsoever. It doesn't distinguish between a fully-secured or collateralized loan nor does it state a difference between a loan or a mortgage. The problem simply is that these insurance companies have people who work for the company many years at the time they were given a mortgage at 5%, 15 or 20 years, they now become officers, there is absolutely no way that the mortgage can continue, they have to go to a bank and interest rates as you know are 9 to 10%. The amendment simply eliminates the word employee

because basically there was need for it; the act itself prohibits loans of any nature to directors or officers.

Amendment adopted. Ordered to third reading.

HB 825, providing for a referendum to determine the form of city government for Dover. Ought to pass. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: This bill authorizes the city of Dover to change its present form of city government from a city manager plan to a mayor council plan. If approved by the voters at a referendum at the regular municipal election that is held in Dover in November for 1977. There was no one in opposition and there are no amendments.

Adopted. Ordered to third reading.

HB 826, establishing a primary for Rochester city elections. Ought to pass. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: This bill handles Rochester by referendum to have the primary election before this fall election. No one was against the bill, no amendments.

Adopted. Ordered to third reading.

HB 1156, relative to the property tax lien for the elderly and disabled. Ought to pass with amendment. Sen. Keeney.

Amendment to HB 1156

Amend RSA 72:38-a, I(b) as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

(b) is eligible for benefits for the totally and permanently disabled under the federal social security act, and who has owned his homestead for at least 10 years, and who is currently residing in same, may apply to the selectmen of the town or city assessor, where the property is located, for certain relief, pursuant to this section, from a portion or full payment of taxes due on said real estate. Application must be

made annually before June 1 on a form provided by the town, the format of which shall be prescribed by the Department of Revenue Administration and a brief statement of claim of the property tax exemption shall be made on the inventory blanks pursuant to RSA 74:4.

Sen. KEENEY: At the present time, when the elderly are disabled and ask for a tax lien, the state has no form and usually the request comes in the form of a letter and so forth. This house bill would require the state department of Revenue Administration to prepare a form for the application. It would also require the town granting such a lien to register it within the appropriate county within 30 days afterward. The amendment would simply require the person who had been given such a lien to report it on his inventory form.

Amendment adopted. Ordered to third reading.

HB 242, restricting the horsepower of motorboats operating upon White Oak pond in Holderness. Ought to pass with amendment. Sen. Gardner for the committee.

Amendment to HB 242

Amend RSA 486:21 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

486:21 White Oak Pond. No person shall use or operate any motorboat or any boat equipped with an outboard motor in excess of 7.5 horsepower upon the waters of the White Oak pond in the town of Holderness; provided, however, on the effective date of this section, the contiguous property owners of the pond, who own and operate outboard motors in excess of 7.5 horsepower on said pond, may continue to do so until their outboard motor is replaced at which time said motor shall not exceed 7.5 horsepower. Whoever violates this section shall be guilty of a violation.

Sen. GARDNER: The bill was amended in the House and it reduced the the horsepower from 10 to 7½ and this amendment places on the bill, so that the people now have 10 horsepower motor for the time the motor is in existence may use them and it will not make them conform to the law about

having to change in 60 days. The hearing in the House was held and non-residents with property on White Oak pond had no knowledge of it. However, one person evidently was notified a few days before the Senate hearing by someone. He had mailgrams prepared and ready to send but was so disturbed he decided to come himself. The hearing was not largely attended. The Fish and Game, the Pollution and Control, the Resources and Economic Development. No one appeared from there on the bill. The sponsor Mr. Taylor from Holderness spoke first. He favored the change to 7½ in preference to the 10 horsepower as amended by the House. He thought powerboating should be eliminated and also thought maybe a safety factor might be involved. He stated that the depth of the water was 38 feet. The pond is also shallow and continues 290 acres. He also feared danger from threatened development. Next Mary Perry of Watertown, Mass and Ashland spoke briefly to the bill. She felt that there was danger when canoeing and that there was a potential danger with any development which constantly threatens. Mr. Paul Whitmonds spoke from from Ashland in favor of the bill. When questioned about the petition said it was taken from residents who did not live on the island. A person from Plymouth attending the hearing was asked if he wished to speak. However, as he had only heard about the bill the day before and had not had time to familiarize himself with it and therefore did not speak but he did remark that he thought it was an area that needed protection. Two non-residents living on the pond opposed the bill. One by mailgram, Mr. and Mrs. Daniels and the other prepared mailgrams but he was so disturbed that he came himself. His name was Mr. Thomas Bresnahan of Annapolis, Maryland and White Oak pond. Mr. Bresnahan was a resident of Annapolis and is one of the football coaches at the United States Naval Academy. He owns property on White Oak pond with a market value between \$60,000 and \$70,000 with a 100-foot frontage. He has owned this property for fourteen years and has one of the high speed motors referred to in this bill. Since 1969 they have been a waterskiing family. They use the ponds in the middle of June till the middle of August when they must return home because of football practice. He said their experience over this period of time has been one of complete safety and great enjoyment. He mentioned the acreage of the pond and described the size and width. He stated that Little Squam did have an excess into Big Squam while the

access from White Oak pond into Big Squam was only a dam. There are fourteen residents regularly using the pond and only to the best of his knowledge, only four boating residents of high speed nature. He could not understand the safety concern, he is also one who is concerned about the loons. He also does not think the fishing is very good they have only caught 10 million blue gills and a few perch and two bass in all the time they had lived there. If one had to ski on Big Squam or Little Squam he surely would have to submit himself to danger. They are a skiing family. In the mailgram Mrs. Daniels, they said they had lived on White Oak pond for thirteen years and raised their family and that they did have a high powered boat but they did not know if there had been any accidents. Since the hearing I have received many telephone calls, I have received a petition from the Squam Lakes Association; there was a scattering of letters from around the state of residents of Holderness and Ashland. Most of the letters were in favor of the bill because of the protection of rare and endangered wildlife, notably the loon. One lady wrote that the loons had nested on White Oak pond for 70 years. Several alluded to the peace and quiet desired. Two or three mentioned the ecology of the water. Now it did not seem fair to restrict these people and have it take effect in 60 days when they had done nothing to disturb the ecology of the water, there had been no accidents and the loons are still there. I understand that the loon has only two chicks and sometimes there are two to four loons in a year. This White Oak pond was one of 21 places where the loons nested last year so it goes to show that the boats that these people have do not disturb the loon and in fact they enjoy the loons just as much as any of the other residents on White Oak pond. The committee did not think that the bill was quite fair in reducing the horsepower to $7\frac{1}{2}$ nor to make it effective in 60 days which made this people either get rid of their boats, go over to Squam lake and use their boats where there is a great deal of danger. As you will notice on page 12 the amendment was presented to the committee and accepted by the whole committee which it will allow the operator of any motor boat or any boat equipped with an outboard motor in excess of $7\frac{1}{2}$ from the waters of White Oak pond in the town of Holderness provided however on the effective date of this section, the contiguous property owners of the pond who own and operate outboard motors in excess of $7\frac{1}{2}$ horsepower may continue to

do so until their outboard motor is replaced at which time said motor shall not exceed 7.5 horsepower. For that reason we are hoping that you will accept the amendment in just a state of fairness if nothing else.

Sen. SMITH: I rise in support of the amendment and the bill. I think Senator Gardner has done an admirable job in resolving the problems on White Oak pond. I have talked with the sponsor who is now happy with the amendment and the bill.

Sen. HEALY: I also rise in support of the bill and motion and complement Senator Gardner for the fine work she did on it. The amendment is nothing but an attribution program on these boats that are in effect right now. No one from the pond whatsoever favored this particular bill and just about everybody that attended that hearing were people who did not live anywhere near the area and no one that owned cottages appeared for the bill. I think it is good with the amendment.

Amendment adopted. Ordered to third reading.

HB 371, relative to the use of highway relocation funds. Ought to pass. Sen. Poulsen for the committee.

Sen. POULSEN: Mr. President this is purely a housekeeping bill without any qualifications. It rewords two RSA chapters that have to do with their receiving federal funds. The highway department wants it, what it does I couldn't begin to tell you but it suits them and it is what they want and it doesn't seem to do anything else.

Adopted. Ordered to third reading.

HB 522, increasing the fee for initial number plates from \$5 to \$10 and requiring that initial plates be issued each year. Ought to pass. Sen. Healy for the committee.

Sen. HEALY: This bill calls for a \$10.00 fee for the so-called vanity plates. It is a raise from 5 to 10 dollars. They are to be issued each year. There are some 25 to 50,000 of these vanity plates issued yearly. Some people of the committee felt that the state might feel the effects of some not accepting that plan due to the increase but then again even if it was reduced to half they would still receive the same amount of money.

Our feeling is that this will not affect a number of those taking vanity plates. People who want them continue to want to use them and they are willing to pay the fare. Some states require \$15 to \$20 for a vanity plate. We were in full agreement that this bill ought to pass and would be a good income for the state of New Hampshire.

Sen. Brown moved that HB 522 be laid on the table.
Adopted.

HB 629, altering gross weight and axle distribution limits for 5 axle trucks; providing for an increase in registration fees; and limiting vehicle loads to the rated capacity as determined by the manufacturer. Ought to pass with amendment. Sen. Lamontagne for the committee.

Amendment to HB 629

Amend the bill by striking out sections 2 and 3 and inserting in place thereof the following:

2 Rated Capacity Determined by Manufacturer. Amend RSA 263:61 by inserting after paragraph XIV the following new paragraph:

XV. Notwithstanding any other provision of Title XXI, no motor vehicle or combination of truck-tractor and semi-trailer manufactured after July 1, 1977, having a gross vehicle weight in excess of 18,000 pounds shall be operated, or cause to be operated, with a total gross weight that exceeds the gross weights certified by the manufacturer. Proof of such certified gross vehicle weight shall be permanently affixed to the vehicle or carried in or about the vehicle and displayed on demand of any police officer and such evidence of a certified gross vehicle weight shall contain the vehicle identification number to which it applies, if such is not permanently attached to the vehicle.

3 Increased Registration Fees. Amend RSA 262:1, IV as amended by striking out said paragraph and inserting in place thereof the following:

IV. For each motor vehicle, farm truck or tractor including trailers and semi-trailers equipped with pneumatic tires except motorcycles and motorcycle sidecars, and except as provided in paragraphs III and V, the following rates based on the

gross weight of the vehicle and load: All vehicles and load except trailers, not exceeding 3,500 pounds, \$15; exceeding 3,500 and not exceeding 4,200 pounds, \$20; exceeding 4,200 and not exceeding 5,000 pounds, \$25; exceeding 5,000 and not exceeding 6,000 pounds, \$30; exceeding 6,000 and not exceeding 8,000 pounds, \$.50 per 100 pounds; exceeding 8,000 pounds, \$.60 per 100 pounds; a registration fee of \$1.08 shall be paid for each 100 pounds or portion thereof of gross weight a vehicle is registered for in excess of 73,280 pounds. For all trailers based on the gross weight of the trailer and load: not exceeding 500 pounds, \$2; exceeding 500 and not exceeding 1,000 pounds, \$4; exceeding 1,000 and not exceeding 1,500 pounds, \$5; exceeding 1,500 and not exceeding 3,000 pounds, \$10; exceeding 3,000 and not exceeding 4,500 pounds, \$15; exceeding 4,500 and not exceeding 6,000 pounds, \$25; exceeding 6,000 and not exceeding 8,000 pounds, \$.50 per 100 pounds, exceeding 8,000 pounds, \$.60 per 100 pounds. For all vehicles including trailers equipped with hard rubber tires the sum of \$.20 per 100 pounds shall be added to the above rates. For all vehicles including trailers equipped with iron, steel or other hard tires the sum of \$.40 per 100 pounds shall be added to the above rates; provided that the minimum fee as provided herein shall be \$15 for all passenger vehicles and trucks. Equipment mounted on trucks of which the equipment is an integral part of the unit shall be registered at 1/3 of the above rates. Cement mixers, saw rigs and air compressors towed by motor vehicles shall pay a fee of \$5 except when towed exclusively within the limits of a single city or town, in which case no fees for registration shall be collected. In the registration of any tractor to be used in combination with a semi-trailer, the gross weight shall include the weight of such tractor, the weight of the heaviest semi-trailer to be used therewith, and the weight of the maximum load to be carried thereby and separate registration certificates and plates shall be provided for the tractor and semi-trailer. For the registration of each additional or extra semi-trailer the fee shall be \$25.00.

Sen. LAMONTAGNE: Section 2 of the bill as amended is only a simple but effective truck safety plan. The purchase of a new commercial truck would be required to obtain from the manufacturer which state, design and capacity of the vehicle. The truckers will be forbidden to load this vehicle beyond the capacity of the manufacturer's state. Within a decade

of every commercial truck in the state will be covered by this provision. The safety department feels that as amended this provision can responsibly be enforced. Presently only 2% of all New Hampshire accidents are blamed on equipment failure. This bill would reduce the rate even further. The combination of truck and semi-trailer manufacturers after July 1 1977 would have to be according to manufacturer's specifications as far as weight. Now the most important effect of this bill is that it makes our laws uniform with 36 other states including Maine and Massachusetts and Vermont. Trucks registered in New Hampshire cannot carry 80,000 pounds and in the 36 states which allow it, they are limited to New Hampshire registrations. Our manufacturer's most complete with companies in other states who can ship more, our truck drivers are often denied back hauls in other states because they can't carry a full load. Our customers pay more for fuel, milk, meat and products because of this restriction. Uniform laws are badly needed and would benefit New Hampshire. There is one thing I would like to have the Senators keep in mind, right now New Hampshire is losing $\frac{1}{2}$ a million dollars in registration fees.

Sen. SANBORN: Senator, the way this bill reads and your amendment, I want to understand part 2, rated capacity as determined by the manufacturer. Does that mean that if I buy a so-called $\frac{3}{4}$ ton pickup truck that I can put $\frac{3}{4}$ of a ton on that?

Sen. LAMONTAGNE: You would be able to register according to the factory specification after July 1st.

Sen. SANBORN: What is the manufacturer's specifications for $\frac{3}{4}$ ton pickup?

Sen. LAMONTAGNE: I'll yield this question to Senator McLaughlin.

Sen. McLAUGHLIN: You have to go by the vehicle itself—whether it has heavier rear springs or light or whatever the manufacturer made it for. The answer to $\frac{3}{4}$ ton it could be 2 or 3,000 pounds, depending on the kind of springs in the back and the rate of capacity.

Sen. SANBORN: I have heard that this portion of the bill is going to restrict the truck drivers in my section hauling sand and gravel to a limit far under what they are carrying now. Is this true or not?

Sen. McLAUGHLIN: If they are overweight, yes, if they are carrying the right load the answer is no.

Sen. SANBORN: I may be assured that my people who are hauling sand and gravel or whatever comes off of the banks are not going to be effected and they are registered right and have the rear end springs built up to the proper degree.

Sen. McLAUGHLIN: Correct.

Sen. LAMONTAGNE: Senator please keep in mind that we are talking about 5-axle trucks.

Sen. SANBORN: I have a question from my people Senator who are not in Berlin with 5-axle trucks, they have a single axle truck, they are hauling sand, gravel, loam and so forth and they feared that the way this thing read right now that they were going to be restricted to $\frac{1}{2}$ loads. And I now have the assurance that they will not?

Sen. LAMONTAGNE: No. I have a 2-ton truck right now and that truck is registered right now for 18,000 pounds. So the 2 and 3 axle trucks have nothing whatsoever to do with it, we are talking about 5 axles.

Sen. DOWNING: Mr. President wasn't the question of 80,000 pound trucks being allowed on the road indefinitely postponed?

The CHAIR: The question that was postponed indefinitely was with regards to 80,000 pound trucks upon interstate highways. This bill goes much further and is of a different nature and I believe that that did not deal with the 5 axle business either.

Sen. DOWNING: Wasn't the major problem with 80,000 pound vehicles the secondary roads rather than the interstate highways, that there was no way of getting on and off the highways without going over our roads?

The CHAIR: The question was the passage of trucks with 80,000 pounds on the interstate.

Sen. DOWNING: Is it the Chair's opinion that after considering the previous action this body took that indefinitely postponing 80,000 pound trucks on our roads that this bill is sufficiently different that it is allowed in under normal procedure?

The CHAIR: The Chair has accepted the bill as being different from the bill that was indefinitely postponed.

Sen. McLAUGHLIN: Mr. President I would like to rise in support of this bill. I know that we have heard a lot about trucks these past few months but with the amendment that you have here it is doing several things. It is clarifying some problems that we have and most important in all it is going to save us some loss of revenue that we have talked about be-

fore, let's say some \$750,000 worth, let us subtract a little bit and say $\frac{1}{2}$ a million dollar's worth of revenue. Why are we losing it—we are losing it because the states surrounding us have the 80,000 pound law. If the fellow is an owner-operator or a gypsy as we call him in the trade and has a tractor and meets the qualifications with extra axles and so forth pulling a load, will naturally register it in some surrounding state over the line at his cousins or aunts or people like the big fleet carriers are registering those vehicles in their states at their terminal rather than New Hampshire and are only paying a five dollar decal cost for registering in New Hampshire. They are doing that so they can haul their 80,000 pounds. By doing this thing here, there is a penalty in here that if you read: "if a company or person that is registering that truck over the present law now which is 73,000 and goes to the 80,000 they are paying a premium of \$1.08 per 100 pounds rather than 60c. So they are not getting away with it cheap, they are going to pay extra money for it and it is going to keep the money here in the state of New Hampshire rather than going someplace else. The bill has been worked out by 36 states now. I see nothing wrong whatsoever with the bill. What we are doing here and saying is that we are having more tires or more rubber on a highway at a given time than we have now which means that there is less weight per axle or per tire than we have at the present time. It will create less damage to our roads because we are distributing the weight in a more evenly fashion.

Sen. TROWBRIDGE: When we had the bill before it only related to allowing 80,000 pounds on interstate highways and we indefinitely postponed that bill so this bill would allow 80,000 pounds on any highway, is that right?

Sen. McLAUGHLIN: Correct.

Sen. TROWBRIDGE: And the theory is that you are using more axles than some have before?

Sen. McLAUGHLIN: Correct.

Sen. TROWBRIDGE: What happens Senator McLaughlin when you get a truck that is 58 feet long and I don't care how many axles it has on it, it could have 20 and it is going over a 60 foot bridge, what happens to that bridge? Does it not bear the entire weight of the truck regardless of the distribution of the axles?

Sen. McLAUGHLIN: I would have to say yes and on the other hand the highway department says we will not have any problem with it.

Sen. TROWBRIDGE: As Senator Rock says you go fast over that bridge. Right? Do you remember the old story Senator McLaughlin about the old person who used to get out and bang his truck and did it over every bridge and the guy asked him why he did that and he say, well I got a load of birds in here and if I can keep half of them flying I am alright? But Senator does it not make complete common sense in a bill such as this where you say okay, the roads are going to be better and I don't know about that, but certainly there is no way that you can spread the weight of 80,000 pounds over a 58 foot bridge in any other way except the way the bridge can take it.

Sen. McLAUGHLIN: Yes you are correct but on the other hand you are having less weight per tire that is touching that bridge is going over and in any given spot you are dividing the weight in a more even distribution than you are at the present time.

Sen. TROWBRIDGE: That's when it is longer than 60 feet that distribution has to be from the bridge structure not from the axle.

Sen. McLAUGHLIN: Right.

Sen. TROWBRIDGE: And at that point do you know, have you investigated the implications for the bridges of the state of New Hampshire, $\frac{2}{3}$ of which are partially town-owned.

Sen. McLAUGHLIN: Nobody has proven it, I don't believe they will. Langley from the highway department has spoken in favor of the bill and he feels it would be much better than we have at the present time.

Sen. TROWBRIDGE: I take it people now are partially violating the law now and running over 80,000 pounds without the distribution?

Sen. McLAUGHLIN: No I don't think that is true.

Sen. TROWBRIDGE: Oh Yeah? Ha.

Sen. LAMONTAGNE: Isn't it true that if you have 4 or 5 axles you have to have a special permit from the highway department?

Sen. McLAUGHLIN: Correct.

Sen. LAMONTAGNE: Doesn't that answer the question he has asked you about more than five axles?

Sen. McLAUGHLIN: Correct.

Sen. LAMONTAGNE: Now you mention the amount of revenue that the state of New Hampshire was losing. Would you explain?

Sen. McLAUGHLIN: That is correct. Anything over 73,280 pounds they will pay 60c for that weight; anything over that they will pay \$1.08 per 100 pounds thereafter to 80,000 pounds.

Sen. BRADLEY: Senator McLaughlin I note something in here about a minimum distance between extreme axles and the semi-trailers or something, can you assure me that there is nothing in here that is going to lengthen the permissible length of trucks?

Sen. McLAUGHLIN: To my knowledge none whatsoever.

Sen. BRADLEY: Do I understand further that there is nothing in here that is dependent either upon what the federal government does or the manufacturer, in other words if the manufacturer increases the rating of a truck to 85,000 pounds, you can't drive it on these roads.

Sen. McLAUGHLIN: You cannot go over 80,000 pounds.

Sen. BRADLEY: There is nothing that is tied in here to what the federal government says?

Sen. SANBORN: I couldn't help but here the questions that Senator Trowbridge had with you but don't I seem to remember in physics and I remember quite well in my old machinery handbook that the two points of that 60 foot span to which he referred to were at each end were the fulcrums of a lever and basically with 58 feet of truck running between those two you have more strength at the two fulcrums at each end anyway, so his 58 feet is not in the center of the bridge where the strain would affect it but actually on the two ends that have the most strength.

Sen. POULSEN: Mr. President, there was testimony from the governor's council on energy in favor of this bill and they pointed out that this bill would save the state nearly 1,800,000 gallons of diesel fuel annually which could be hauled for free on this extra weight increase and that would be fuel enough to heat over 1900 New Hampshire homes for a year. I think that is quite a good savings and well worth making.

Sen. DOWNING: Senator Poulsen, did they also testify as to how much oil it would take to replace the roads, the hot top, and the tar that the trucks would tear up?

Sen. POULSEN: I don't think they thought any would be necessary Senator.

Amendment adopted.

Question of ordering to third reading.

Sen. Bossie requested a roll call. Seconded by Sen. Lamontagne.

The following Senators voted yea: Lamontagne, Poulsen, Gardner, Bradley, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Healy, Sanborn, Provost, Brown.

The following Senators voted nay: Blaisdell, Trowbridge, Keeney, Hancock, Bossie, Downing, Preston, Foley.

13 yeas 8 nays

Ordered to third reading.

HB 830, relative to road toll rebates. Ought to pass. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: Mr. President, members of the senate, the present law permits certain persons who have paid a road toll, impose upon motor fuels to apply for a refund for the tolls, if they apply within 6 months from the date of purchase of invoice of fuel. This bill permits the commissioner of safety to waive for such cause such six month limitation for an application for such road toll rebates.

Adopted. Ordered to third reading.

HB 861, relative to the regulation of odometers. Ought to pass. Sen. Gardner for the committee.

Sen. GARDNER: This bill had no opposition. A member of the attorney general's office spoke in favor of the bill and New Hampshire Automobile Dealers spoke in favor of the bill. The bill would prohibit turning back the odometer. Some had been turned back as much as 30 to 50,000 miles and this is a violation of a law. They felt this would prevent any further violations.

Adopted. Ordered to third reading.

HB 939, authorizing the director of the division of motor vehicles to issue a 5 day permit for a motor vehicle, trailer,

semi-trailer, or tractor. Ought to pass. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: This bill would replace what is now a 36 limit permit. The problem is to get out-of-state cars here, and this would extend it to five days without the Department of Safety.

Adopted. Ordered to third reading.

HB 1057, relative to tax abatement on municipal airport property in Manchester and Londonderry. Ought to pass. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: This bill permits the selectmen or assessors to abate taxes on payments in lieu of taxes on municipal airports so long as the amount abated is used solely for the operation and maintenance of the airports.

Adopted. Ordered to third reading.

HB 964, relative to a motor vehicle franchisor's responsibilities for warranties. Ought to pass. Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: This bill is a motor vehicle franchisor's duty to his franchise relative to the warranties from the franchisor to the franchisee on merchandise and service assistance. On a method of franchises which are sold or performed by a franchisee.

Adopted. Ordered to third reading.

HB 229, amending certain provisions of the statutes relative to OHRVs. Ought to pass—Sen. Lamontagne for the committee.

Sen. LAMONTAGNE: This bill is for a person who does not need a license to operate a snowtraveling vehicle unless he operates across or upon a public highway or a portion thereof in which case said person must be at least sixteen years of age and must be licensed to operate a vehicle in accordance with the provision of RSA 261 or if he is a non-

resident of this state he must be at least sixteen years of age and duly licensed to operate a motor vehicle to this state resident excepted that a resident or a non-resident shall not be required to have a motor vehicle operator's license while operating a snow motor vehicle upon any frozen surface or public bodies. Mr. President there is also an amendment to this bill. This morning we were looking for the amendment and it was not printed in the journal but it is a committee amendment and we couldn't find it this morning and now I can't find it again. I have it. This bill further amends.

The CHAIR: The chair will state that since it was not included in a committee report we would have to have it as a floor amendment.

Sen. LAMONTAGNE: Mr. President it was supposed to have been listed as an amendment formed in a committee.

The CHAIR: The committee report was with or without an amendment?

Sen. LAMONTAGNE: Without. This amendment has been distributed to all the members.

Sen. Lamontagne moved an amendment to HB 229.

Amendment to HB 229

Amend section 12 of the bill by striking out same and inserting in place thereof the following:

12 Snow Traveling Vehicle Refund. Amend RSA 265:19, I (supp) as amended by striking out said paragraph and inserting in place thereof the following:

I. Any person who shall use any motor fuel, with respect to which the road toll herein imposed has been paid, in any way other than in motor vehicles for the purpose of generating power for the propulsion thereof upon the public highways, or any city, town, county farm, school district or village district which shall use any motor fuel in its own vehicles, or any dealer who shall make sales specified in RSA 265:4 (a), (b) and (c), shall be entitled to a refund to the extent of the amount of said tolls so paid, with respect to such motor fuel. The right to receive any refund under the provisions of this section shall not be assignable and any assignment thereof shall be void; provided, however, members of an organized club for snow traveling vehicles may assign individual rights to a refund

under this section to their respective clubs for the expansion and maintenance of club trails. With the exception of refunds made to snow traveling vehicle clubs, no payment of any refund shall be made to any person other than the original person entitled thereto using or selling motor fuel as hereinabove in this section set forth.

13 Effective Date. This act shall take effect 60 days after its passage.

Sen. LAMONTAGNE: Mr. President, members of the Senate, as you know the members of the House, the Highway Department had favored of a $\frac{1}{2}$ of a percent for the snowmobiles in order to make improvements in trails. The House defeated the amendment because the original bill had called for one cent and Commissioner Clement was against but the Commissioner was in favor of the $\frac{1}{2}$ of a percent and that the House defeated it. Now our committee has accepted another amendment and it amends section 12 of the bill by striking out the same and inserting in same in the place thereof the following, the amendment instead of having individual and having $\frac{1}{2}$ of a percent on these snowmobiles a new formula has been formed that the half of a percent will go to the organized clubs and the public works is in favor of the proposed amendment that is now pending before you. Therefore it is a half of a percent and it must be an organized club and at the same time the fund is to be used for club trade.

Amendment adopted. Ordered to third reading.

HB 832, amending certain time limits under the uniform motor vehicle certificate of title law. Ought to pass. Sen. Healy for the committee.

Sen. HEALY: This bill is pretty much of a housekeeping bill and it has the endorsement and approval of Mr. Dennis Smith of the Title Bureau and also has the support of the New Hampshire Auto Dealers Association. It increases the time limit on issuing titles from 10 to 20 days. It seems as though the motor vehicle department has been having its problems on issuing its titles on time. Sometimes it takes by mail 5 or 10 days to have a title transferred. So they have requested that the extension of time be made and to help out and especially that buy cars from out of state, private ownership and so

forth. From what we understand it is a good bill and it just helps out the motor vehicle department move its paperwork.

Adopted. Ordered to third reading.

HB 854, authorizing the director of the division of motor vehicles or his agents to examine vehicles in certain locations. Ought to pass. Sen. Healy for the committee.

Sen. HEALY: This bill which concerns motor vehicles and the right of agents from the motor vehicle departments to examine vehicles in certain locations. Especially in areas where cars have been stored and especially in junk yards. There has been a great many, business of theft of cars and transfer of titles especially by thieves taking titles from cars in junk yards that have been junked. They use these titles on similar cars and they get away with it by going into other states and selling these cars with titles. It is pretty much of a bill to provide more security and stop more theft of automobiles.

Adopted. Ordered to third reading.

HB 384, to reclassify a certain section of highway in the town of North Hampton. Ought to pass. Sen. Gardner for the committee.

Sen. GARDNER: Mr. Avery appeared for the bill and no one appeared against it and he said that everything had been done according to law to allow this reclassification. There is no appropriation connected with it. All the money matters have been tended to and we would like this bill to pass.

Adopted. Ordered to third reading.

HB 196, authorizing the issuance of non-driver's identification cards. Ought to pass. Sen. Poulsen for the committee.

Sen. POULSEN: Mr. President, this bill gives the Department of Safety the right to issue non-driver licenses to people particularly older people who want it for identification purposes. The only problems with the distribution of the money

and the House amendment which is part of the bill, took care of that to the satisfaction of the Department of Safety.

Adopted. Ordered to third reading.

HB 494, establishing a staggered registration system for motor vehicles and changing registration and municipal permit fees. Ought to pass. Sen. Healy for the committee.

Sen. HEALY: This again is pretty much of a housekeeping bill as they would say especially for the motor vehicle department and it was unanimously supported by Senator Packard, Representative Clark, Chief Sweeney. Commissioner Fred Clarke said he had worked with town clerks and so forth and that the system in operation is very excellent as it is and it helps quite a bit in handling the paper work and so forth as far as staggering the registration. It is a good system now and it has worked well on cars and he feels it could be good for the rest of the motor vehicle area which is encompassed in this detailed bill. Fred LaPlante is a supporter of the bill also, George West as well.

Adopted. Ordered to third reading.

HB 232, amending the method of charging boat registration fees, revising the distribution of boat registration fees requiring the issuance of annual boat number plates and making an appropriation therefor. Ought to pass. Sen. Poulsen for the committee.

Sen. POULSEN: Mr. President this bill does have an appropriation with it so I presume it would go to the Finance committee if it is acted on. The bill changes the method of registering boats. It seems to raise it a little as far as I can see. It gives a little different formula for the charge depending on the length of the boat and it also allows for yearly registration and initial plates and the charges are in there. I am not sure that yearly is popular with the Department of Safety but if senate finance looks at it and they may very well be giving testimony on that.

Referred to Finance under rule No. 24.

INTRODUCTION OF A SENATE BILL

Approved by Joint Rules After the Deadline

First and Second Reading and Referral

SB 370, exempting from taxation interest on certain out of state bank deposits. (Downing of Dist. 22; Poulsen of Dist. 2; Blaisdell of Dist. 10; Saggiotes of Dist. 8; Bradley of Dist. 5; Trowbridge of Dist. 11; Smith of Dist. 3; Rep. Plourde of Merrimack Dist. 7; Rep. French of Belknap Dist. 1; Rep. Griffin of Rockingham Dist. 19; Rep. Crory of Grafton Dist. 13; Rep. McLane of Merrimack Dist. 16—To Ways and Means)

SUSPENSION OF RULES

Sen. Downing moved that the Rules of the Senate be so far suspended as to allow **SB 370** be placed on second reading at the present time without the holding of a public hearing or notice of committee report in the journal.

Adopted.

SB 370, exempting from taxation interest on certain out of state bank deposits.

Sen. DOWNING: This bill was a subject offered to the Ways and Means committee in the form of an amendment in the interest and dividends tax bill that we have. We felt it was of sufficient importance and the emergency existed that the Senate should probably consider this as an individual bill. I put the proposal to the joint rules committee and they felt it had sufficient weight to warrant the suspension of rules to allow the bill to be introduced. So that is why you have this bill before you. The problem that we are trying to wrestle with this bill is one that recently happened in Vermont and it represents a very critical problem with the western part of our state. The Vermont legislature has passed a bill that has become a law July 1 that deposits by Vermont residents in New Hampshire banks the interest going to be subject to a 5% tax. It applies only to New Hampshire because it said only the states that tax deposits of their residents of other states. We do that. Some states around us don't do it. So it is totally



